

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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IN RE: )  
 )  
NATIONAL PRESCRIPTION ) Case No. 1:17MD 2804  
OPIATE LITIGATION )  
 )  
Motion to Disqualify )

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TRANSCRIPT OF PROCEEDINGS HAD BEFORE THE HONORABLE  
JUDGE DAN A. POLSTER, JUDGE OF SAID COURT,  
ON WEDNESDAY, FEBRUARY 6TH, 2019,  
COMMENCING AT 2:30 O'CLOCK P.M.

- - - - -

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## I N D E X

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**PROCEEDINGS**

THE COURT: All right. Good afternoon.  
Please be seated.

This is a hearing in MDL 2804, the opioid MDL on the Plaintiffs' motion to disqualify. The parties are here, and the Court is ready to proceed. I have a few things I want to say at the outset.

This is a difficult hearing to conduct — this is a very difficult for me to conduct and not one I sought out, and in fact, I sought to avoid. I know the parties conducted extensive discussions before this motion was filed in an effort to achieve some resolution, and that those discussions continued under Special Master Cohen's auspices after motion was filed.

Ms. Rendon is a good friend of mine. I know her to be an excellent attorney, both during her distinguished government career and afterwards, and I consider you to be a highly ethical and professional attorney, and the same goes for the men and women at Baker Hostetler whose partners include many friends and former colleagues. It is a highly professional and ethical law firm.

Everyone should recall I did not want to create this litigation track. I didn't think it was a good idea, but after several months, I was convinced that

1 it was necessary to do so. Trying to address a  
2 nationwide social epidemic in a courtroom is a  
3 problematic endeavor to say the least. It doesn't fit.

4 In an adversarial proceeding, in a trial,  
5 there are winners, and there are losers. There are no  
6 winners in this epidemic. There are only casualties.  
7 The only thing we all can agree upon is that we need to  
8 reduce those casualties, both on the front end and the  
9 back end.

10 I don't think anyone anticipated how this  
11 litigation track was going to play out when we created it  
12 last spring because I don't think there has ever been a  
13 litigation like this in the history of our country.

14 We've got more than 1,500 cities and  
15 counties seeking to recoup past and future public  
16 expenditures under RICO and public nuisance theories of  
17 liability.

18 The Plaintiffs' efforts to prove their  
19 damages under these theories and the Defendants' effort  
20 to counter those allegations have led to depositions and  
21 document discovery that I don't think anyone could have  
22 readily foreseen a year ago.

23 So it is nobody's fault that these issues  
24 are surfacing now and not a year ago because I don't  
25 think anyone could have anticipated them. And I would

1 also say that the problem, the issue we are addressing is  
2 specific to this track one trial involving the Northern  
3 District of Ohio, two cities in this district Cleveland  
4 and Akron, and the surrounding counties, Summit and  
5 Cuyahoga County, that were in this Heroin and Opioid Task  
6 Force supervised by the U.S. Attorney's Office.

7 I haven't read or seen anything that to me  
8 creates any issue or problem with Ms. Rendon or her  
9 firm's participation in any trial anywhere else in the  
10 country or her work in the MDL generally, but the focus  
11 is on her work, taking depositions and participating in  
12 this track one trial that is now set for October the  
13 21st.

14 So at this point, I have a couple of  
15 questions for two witnesses, but I think it is best if  
16 anyone who is going to be a witness wait outside, and we  
17 have one witness at a time. That's generally my  
18 practice. I want to make sure that each witness'  
19 testimony is based on his or her knowledge and  
20 recollection.

21 And the two witnesses I had just a couple  
22 questions would be Commander Gingell and Dr. Gilson, but  
23 anyone — so I guess I will start with Commander Gingell,  
24 but anyone else who is a potential witness, we have  
25 opened up the witness rooms outside, and I would request

1 that those people wait outside.

2 I guess, Ms. Rendon, if you are a potential  
3 witness, you can be here, but anyone else who is a  
4 potential witness should be in one of the witness  
5 rooms.

6 And Commander Gingell, I would like you to  
7 come and take the witness stand.

8 MR. WEINBERGER: Your Honor, do you mind if  
9 I stay?

10 THE COURT: No. That's fine,  
11 Mr. Weinberger.

12 MR. WEINBERGER: So counsel for Ms. Rendon,  
13 Mr. Parker and I, have discussed the fact that during  
14 the course of testimony, some of these witnesses may  
15 be reluctant and should be reluctant to discuss the  
16 details --

17 THE COURT: Oh, I am not going to ask them  
18 any details, and I am not going to permit any questions  
19 about it, that's it. I mean, that's the one thing we are  
20 not going to have.

21 MR. WEINBERGER: If I could just further  
22 explain, and I think this is may be what the Court has in  
23 mind, so confidential information such that relates to  
24 law enforcement tactics or strategy and the like are  
25 things that we have concern about, and I am assuming

1 that's what you are directing your comments to.

2 THE COURT: There will be no questions by me  
3 or anyone else about those details.

4 MR. WEINBERGER: Thank you, your Honor.

5 MR. PARKER: John Parker, on behalf of  
6 Ms. Rendon, and I will he remain seated. There have been  
7 certain documents produced in the case, which were  
8 attached to the various declarations that have been  
9 submitted here in Court, which under the terms of the  
10 protective order that governs this case, which admittedly  
11 I am not that familiar with because this is my only touch  
12 point with this case happily that are confidential or  
13 highly confidential.

14 In addition --

15 THE COURT: We are not going to be  
16 discussing those documents, Mr. Parker.

17 MR. PARKER: All right. In addition, your  
18 Honor, the depositions, for example, Commander Gingell  
19 because it was taken less than 30 days ago, under the  
20 protective order, it is presumptively confidential, and  
21 then the parties dedesignate it, if there is something  
22 from that deposition that we believe to be important, I  
23 assume you would let us approach to --

24 THE COURT: Well, we are not going to have a  
25 lot of questions. I have two questions, and we are not

## Commander Gingell - Examination

1 going to have any questions about the details or  
2 substance of what was discussed during opioid Task Force  
3 meetings. That's the whole point of this.

4 It is problematic going into the details  
5 because if there was sensitive or confidential law  
6 enforcement information, it should be known only to the  
7 individuals in that room. It is, quite frankly, isn't  
8 even any need for me to know let alone the lawyers.

9 So I don't plan to ask any witnesses, and if  
10 anyone tries to ask such a question, I will immediately  
11 stop it, so we are not going to have a lot of witness  
12 testimony, I don't think.

13 All right. And I may have mispronounced  
14 your name, Commander. How do you pronounce it, sir?

15 COMMANDER GINGELL: Gingell, sir.

16 THE COURT: Gingell, okay. Commander, if  
17 you could raise your right hand, please.

18 **GARY GINGELL**

19 **called as a witness and being first duly sworn, was**  
20 **examined and testified as follows:**

21 **EXAMINATION**

22 BY THE COURT: :

23 Q. All right. Commander, if you could just briefly  
24 give your name and your position.

25 A. Commander Gary Gingell, G-i-n-g-e-l-l, badge number

## Commander Gingell - Examination

1 6103.

2 Q. Okay. And you are with the Cleveland Police Force,  
3 sir?

4 A. Cleveland Division of Police. I am Commander  
5 of Special Services, which includes narcotics, SWAT,  
6 gang impact, and several folks on different task  
7 forces.

8 Q. All right. And you, sir, gave — submitted a  
9 declaration, a sworn declaration in connection with this  
10 motion, correct?

11 A. Correct.

12 Q. And you were also deposed as a witness, you were  
13 deposed as a witness in the course of this litigation,  
14 this track-one case?

15 A. Correct. As a witness in my own job description in  
16 November and then as a 30(b)(6) witness in January.

17 Q. Okay. November of 2018 and then a 30(b)(6) witness  
18 for the City in January of 2019?

19 A. Correct.

20 Q. Okay. Sir, how did it feel to you in November of  
21 2018 and January of 2019 to have Ms. Rendon as an  
22 attorney for one of the drug manufacturers question you  
23 during your deposition?

24 A. Sir, she was there in November, and personally, it  
25 was very uncomfortable, extremely uncomfortable as we

## Commander Gingell - Examination

1 worked on the same team for years on this effort, very  
2 serious crises everybody knows. I don't have to get into  
3 that, but we worked together on it; she, being the top  
4 law enforcement official in the district.

5 We worked with DEA and all the other  
6 entities involved from law enforcement, and actually, she  
7 spearheaded the effort for the opiate Task Force, United  
8 States Attorneys Opiate Task Force, brought everybody  
9 together, and we worked on this crisis then. It was  
10 something that we never experienced before.

11 We didn't have a playbook for it. We just  
12 kind of figured things out as we went along relative to  
13 our response, and she was a part of all of that.

14 So to have her on the other side of the  
15 table during my deposition and even initial phases before  
16 she actually deposed me, the lady -- I think her name was  
17 Sonia -- did most of the deposition from the start, and  
18 Carole was down at the end of the table?

19 And there were notes being passed as  
20 questions were being asked. I don't know what was on the  
21 notes, but there were notes being passed down to Sonia,  
22 and then, she questioned me by herself, and the topics of  
23 discussion were topics that we had went over in the Task  
24 Force, and the Task Force, your Honor, was in the U.S.  
25 Attorney's Office in a locked -- you know, the inner

## Commander Gingell - Examination

1 sanctum of the U.S. Attorney's Office, actually two doors  
2 down from the U.S. Attorney's Office.

3 So these meetings weren't public, and I know  
4 there were minutes in that created, but when I reviewed  
5 minutes of what I would say, it was just generalized. We  
6 had discussions in those meetings that I didn't see in  
7 the minutes relative to interactions, overlaps between  
8 law enforcement or emergency room issues like HIPAA,  
9 Narcan, whether we used Narcan or didn't, why we didn't.

10 And the three topics of discussion in the  
11 deposition, one was Narcan; the other was fentanyl, which  
12 we discussed in our Task Force, and the other was LEAD.  
13 That's Law Enforcement Assisted Detox, which we created  
14 with the Adams Board in about 2017 I think it was.

15 This was discussed heavily inside this  
16 meeting with the U.S. Attorneys Opiate Task Force. In  
17 fact, it was a partnership with the Adams Board, and my  
18 guys on the street, who answered over a thousand calls  
19 for '16 and over a thousand for '17, combined with deaths  
20 and non fatals, they would go to the scene and want to do  
21 more for the non fatal victims rather than hand them a  
22 pamphlet?

23 So we had looked at some of the other things  
24 going around in the state where the police were offering  
25 a service. So we put together with Bill Bannihan what we

## Commander Gingell - Examination

1 called our LEAD, Law Enforcement Assisted Detox, where my  
2 guys would go into the ER, work with folks in the ER, and  
3 again, we talked about this at the meetings and arranged  
4 it with Metro, especially with Dr. Papp?

5 And my guys would then be able to take  
6 somebody right from the ER to one of the three treatment  
7 centers, Stella, Rosary Hall, and I forget the third one.  
8 It is on 19th of Prospect, but in any event, those are  
9 the three topics she grilled me on.

10 And it was like -- she sat there while we  
11 had these discussions. She was part of it, and now she  
12 is on the other side of the table grilling me about it.  
13 And my take on it was, she felt -- what she was trying to  
14 elicit from me was we should have started something  
15 earlier, we should have been more comprehensive with the  
16 LEADs.

17 With fentanyl, she was going back to 2006,  
18 and fentanyl wasn't a problem in Cleveland then, and she  
19 had the medical reports that I had and fentanyl deaths  
20 during that time frame from '06 to probably '14 or so  
21 were barely single digit or just barely double digit. It  
22 wasn't an issue, but she took me back to 2006 with her  
23 questioning for some reason?

24 And the Narcan, that was an issue that  
25 Project DAWN got started with Dr. Papp to get this out to

## Commander Gingell - Examination

1 the addicts. Well, they also wanted to get out to the  
2 law enforcement and some of the fire personnel that  
3 didn't have -- the paramedics had it in Cleveland. I  
4 don't believe the EMTs did. Our EMS had it. Our  
5 officers did not.

6 In those meetings, there would be questions,  
7 "hey, when is Cleveland going to get Narcan?" I said, I  
8 know we are working on it. We talked to the chief, but  
9 there is the EMS, Fire, and our department, and the law  
10 department and the unions were all involved in this thing  
11 because it is a medical thing.

12 So I didn't know the whole process they were  
13 going through, but I said we are working on it. But that  
14 was one of her topics at the meeting, and I don't know  
15 what her reasons were, possibly that, hey, if we got it  
16 earlier, maybe there wouldn't be as many deaths. I don't  
17 know where she was going on it, but she definitely  
18 grilled me on it and the other two topics, sir.

19 Q. All right. Thank you, sir.

20 And my second and really only other question  
21 is, do you feel that this experience will have any impact  
22 upon your or your office's participation in task forces  
23 chaired by the U.S. Attorney's Office going forward?

24 A. Well, sir, I have been on quite a while. I have  
25 seen relationships sour, and I have seen them be very

## Commander Gingell - Examination

1 good, and I think right now our relationships are better  
2 than they have ever been with the federal agencies we  
3 work with and the local agencies we work with.

4 That being said, I have worked narcotics for  
5 a long time. I have seen guys that worked a case with  
6 DEA or whatever entity, and the case went off and took a  
7 right turn because it got steered that way, not by the  
8 detective who originated the case but by whatever entity  
9 they were working with, and that was the end of that  
10 relationship with that entity sometimes forever. I am  
11 not working with DEA or FBI.

12 I have heard it over and over again.  
13 Personally, I like Mr. Herdman, and that will not be an  
14 issue for me, but I know that has been an issue that has  
15 been festering over the life of my career, and I think we  
16 have done a lot through STANCE and the Opiate Task Force  
17 to glue those relationships together, but I think  
18 something like this, I think a lot of people feel  
19 betrayed, myself included.

20 I had the utmost respect for Carole when she  
21 in the office. She was hands-on, knew a lot about what  
22 was going on and participated in things, but this really  
23 kind of flipped it over for me.

24 THE COURT: All right. Thank you, sir.  
25 Does either side want to ask any follow-up questions on

Commander Gingell - Examination

1 my two?

2 MR. WEINBERGER: Not on behalf of the  
3 Plaintiffs.

4 MR. STERN: Just a few if I may, your Honor.  
5 Jonathan Stern.

6 THE COURT: Yes, Mr. Stern.

7 Is it better for Mr. Stern -- I know the  
8 habit, of course, is to always to stand, but I want to  
9 make sure, because of the way our audio is working, if  
10 counsel can stay seated because that way it will be  
11 recorded better.

12 MR. STERN: Thank you, your Honor.

13 THE COURT: Or Mr. Stern, if you prefer to  
14 be at the podium standing, that's fine, but if you are at  
15 -- standing at the table, you should be seated.

16 MR. STERN: I am okay here.

17 EXAMINATION CONTINUED

18 BY MR. STERN: :

19 Q. Commander, I want to talk to you a little bit about  
20 the Task Force.

21 MR. STERN: And I understand the Court's  
22 instruction, and I will not heed it.

23 Q. This Task Force that you've described at the U.S.  
24 Attorney's Office, it was --

25 MR. STERN: You know what, your Honor? I am

## Commander Gingell - Examination

1 going to go to the podium if that's okay.

2 THE COURT: That's fine, Mr. Stern.

3 BY MR. STERN::

4 Q. Commander, the Task Force you are talking about grew  
5 out of a conference that was held in November of 2013  
6 here in Cleveland. Is that correct?

7 A. I am not sure when it started. I don't know if it  
8 was before that or after that.

9 Q. But you do remember there was a conference that  
10 involved law enforcement, treatment providers, and people  
11 from a broad range of disciplines and occupations who got  
12 together to talk about the opioid crisis, right?

13 A. In the fall of '13 I believe it was.

14 Q. Right. And the principal action item coming out of  
15 that conference was to create what became known as the  
16 U.S. Attorney's Office Heroin and Opioid Task Force,  
17 correct?

18 A. As I said, I don't remember exactly when it started.  
19 I know we were meeting before that. Actually, the first  
20 meeting was with the Medical Examiner in the fall of '12  
21 when they first brought it to our attention about the  
22 spike in heroin deaths, and then we met again several  
23 times over the course of the beginning of '13, and we, in  
24 fact, formed our HIDI team, Heroin Involved Death  
25 Investigation team, and they were active by June or July

## Commander Gingell - Examination

1 of '13. I am not exactly sure then, but I know the  
2 U.S. Attorney was involved in those discussions.

3 Q. Ms. Rendon was not the U.S. Attorney at the time,  
4 was she?

5 A. No. It was Craig Tame was there. He is the law  
6 enforcement liaison for the U.S. Attorney's Office. I am  
7 not sure who else. It was a long time ago, but I know  
8 the U.S. Attorney's Office was involved in our  
9 discussions in early '13.

10 MR. STERN: Your Honor, I have an exhibit.  
11 May I approach the witness, your Honor?

12 THE COURT: Mr. Stern, I am really not  
13 interested in a long detailed history of the Opioid Task  
14 Force going back to 2013. I asked two pretty narrow and  
15 specific questions, and I would like you to limit your  
16 examination to those questions.

17 MR. STERN: I will, your Honor.

18 MR. WEINBERGER: And your Honor --

19 MR. STERN: Let me move ahead then.

20 BY MR. STERN::

21 Q. Let me move ahead then, Commander.

22 The Opioid Task Force, when was the first  
23 meeting of the U.S. Attorneys Opioid Task Force that you  
24 attended?

25 A. I don't recall.

Commander Gingell - Examination

1 Q. The Opioid Task Force included law enforcement  
2 agents, right?

3 A. Correct.

4 Q. Some were federal; some were state. Is that  
5 right?

6 A. Correct.

7 Q. And by the way, you say you've worked with  
8 Ms. Rendon. You have never been a federal law  
9 enforcement officer.

10 Is that right?

11 A. No.

12 Q. You never operated under her authority, correct?

13 A. No. But I have the Northern Ohio Law Enforcement  
14 Task Force which used to be the Caribbean Task Force. I  
15 have a lieutenant that works in there, and he co-leads it  
16 with an FBI supervisor, three detectives. They work  
17 directly under the OCDETF chief, who works for the  
18 U.S. Attorney, and it is housed in the U.S. Attorney's  
19 Office.

20 Q. Understood, Commander. Let me ask a different  
21 question.

22 You never had a day-to-day working  
23 relationship with Ms. Rendon, correct?

24 A. No.

25 Q. You never worked on any case that she has

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1 prosecuted, correct?

2 A. Correct.

3 Q. In fact, during her entire time at the U.S.  
4 Attorney's Office, she prosecuted may be a handful of  
5 criminal cases, correct?

6 A. I --

7 THE COURT: Mr. Stern, this is going to be a  
8 fairly short hearing. If you had some questions directly  
9 related to the questions I asked or the answers to those  
10 two questions that the Commander gave, that's fine.  
11 Otherwise, we are not going to have more questions.

12 BY MR. STERN: :

13 Q. Commander, the Opioid Task Force included leaders  
14 from the Cleveland Clinic, correct?

15 A. Doctors.

16 Q. That's not a government agency, correct?

17 A. That's correct.

18 Q. It is not a law enforcement agency, right?

19 A. That's correct.

20 Q. They are not from the U.S. Attorney's Office?

21 THE COURT: Mr. Stern, everyone knows who  
22 the Cleveland Clinic is.

23 MR. STERN: Your Honor, we are making a  
24 record, and I respectfully request to have a little  
25 leeway.

Commander Gingell - Examination

1 THE COURT: You are taking too much leeway.

2 BY MR. STERN: :

3 Q. The MetroHealth Medical Center, they were members of  
4 the Opioid Task Force?

5 A. Yes.

6 Q. Robby's Voice, they were members of the Task  
7 Force?

8 A. I couldn't say no. I don't know for sure.

9 MR. STERN: Your Honor, may I approach now?  
10 Unless the Plaintiffs will stipulate in which case I  
11 won't --

12 THE COURT: That there were other members of  
13 the Task Force? Sure. Obviously, there were a lot of  
14 other members of the Task Force besides the Cleveland  
15 Police Department.

16 BY MR. STERN::

17 Q. And Robby's Voice is not a government agency,  
18 correct?

19 A. Not to my knowledge.

20 Q. Orca House, they were members of the Task Force?

21 A. Pardon?

22 Q. Orca House, they were members of the Task Force?

23 A. I don't know who all is in the Task Force, sir. I  
24 can name federal law enforcement agencies, probably most  
25 of them, and the locals. The other treatment

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1 professionals, I know Dr. Papp from Metro, I know  
2 Dr. Jason Jerry from the Clinic, Aaron Marks from one of  
3 the treatment areas, but I don't know a whole lot of the  
4 others.

5 Q. WKYC Channel 3, they were members of the Task  
6 Force?

7 A. I don't know that.

8 Q. Do you dispute that?

9 A. I am not disputing it, but if there was media going  
10 to be present other than Mike Tobin or the communications  
11 person there, we are usually advised of that, that there  
12 will be media present.

13 Q. I am not talking about a media presence. Wasn't  
14 WKYC a member of the Task Force?

15 A. I don't know, sir.

16 Q. How about St. Vincent Charity Hospital?

17 A. Yes.

18 Q. And how about the Adams Board?

19 A. Yes.

20 Q. And all the entities that -- none of the entities  
21 that I just named are law enforcement agencies,  
22 correct?

23 A. Correct.

24 Q. And the information that was being shared at the  
25 Task Force was shared in the presence of all of the

## Commander Gingell - Examination

1 members of the Task Force who would have attended a  
2 particular meeting, correct?

3 A. That's correct.

4 Q. So the information that you talked about on direct  
5 examination and on his Honor's instructions, I won't get  
6 into the particulars, but the kinds of information you  
7 talked about, if WKYC 3 had a representative on the Task  
8 Force and showed up at the meeting, that person you would  
9 have shared the information with in a room where that  
10 person was sitting, correct?

11 A. If there was somebody from a TV station there, I  
12 would not have got in depth with anything.

13 Q. So you don't know whether WKYC was a member of the  
14 Task Force?

15 MR. WEINBERGER: Objection, your Honor.  
16 Asked and answered.

17 THE COURT: All right. Overruled. You can  
18 answer that question.

19 Do you remember if they were a member?

20 THE WITNESS: I do not remember, sir.

21 BY MR. STERN: :

22 Q. You would come to these meetings, sir, and there  
23 would be anywhere from 20 to 40 people in the room. Is  
24 that right?

25 A. That's correct.

Commander Gingell - Examination

1 Q. Let me ask you, did you always know who everyone in  
2 the room was?

3 A. No, I did not.

4 Q. Do you know who Monica Robins is?

5 A. Reporter, I believe?

6 Q. And she attended these meetings as a member of the  
7 Task Force, correct?

8 A. I don't know, sir.

9 MR. STERN: Court's indulgence?

10 (Pause.)

11 BY MR. STERN: :

12 Q. And let me ask a general question again without  
13 getting into the particulars:

14 The information you talked about having  
15 shared in your declaration, that was information --  
16 that's the same information you are talking about here  
17 that was shared in the Task Force, correct?

18 A. At those meetings?

19 Q. Yes.

20 A. Yes.

21 Q. You never stood up at any of those meetings and said  
22 "if there is anybody here who is not from law  
23 enforcement, you need to leave the room"?

24 A. No.

25 Q. You freely shared that information with all of the

## Commander Gingell - Examination

1 attendees at the meeting?

2 A. Yes, and that was necessary with the crisis that was  
3 going on. The people were literally dying, and just like  
4 relationships with law enforcement, that meeting actually  
5 was a different task force that got us started down the  
6 road of the partnerships, was called STANCE, and it was  
7 about gun violence. It started in '05.

8 Most of those people were transplanted right  
9 into the Opioid Task Force. When the Opioid Task Force  
10 started, I'm sure everybody was a little reluctant to  
11 talk, but as things moved forward, it became pretty  
12 apparent that we needed to talk and be open with each  
13 other to see how issues may have overlapped with each  
14 other. Like we would talk about HIPAA issues that were a  
15 problem at Metro Hospital, and it was an overlap, and  
16 Dr. Papp was there.

17 So people, you know, again, to go in that  
18 meeting and sit there and say nothing would accomplish  
19 nothing, so we talked, and I talked about stuff in that  
20 meeting that I wouldn't talk about at a public community  
21 meeting, and I never saw anybody put it on TV?

22 But the conversations were had in that  
23 innerlocked room, and it was revolving around this crisis  
24 and what each particular entity could do on their part to  
25 help it. And from the way we looked at overdose deaths

## Commander Gingell - Examination

1 and overdose non fatalities totally changed within our  
2 division over this period of time?

3 And it continued to evolve in these  
4 meetings, what we learned in these meetings because we  
5 were open, because we were talking.

6 Q. Understood, because the whole point of the Task  
7 Force was to share information between and among law  
8 enforcement, treatment providers, community leaders, and  
9 so forth, right?

10 A. Right. But it wasn't to take that information out  
11 and give it to the first newspaper guy you saw on the  
12 street or some committeeman. There was a lot of  
13 things in there discussed that I didn't hear in a public  
14 forum.

15 Q. Discussed openly in front of people that were from  
16 organizations, that were not law enforcement  
17 organizations, right?

18 A. All professionals working towards the same common  
19 goal to stop this crisis.

20 Q. Discuss openly in front of people whose identity you  
21 didn't even know?

22 A. They were inside the U.S. Attorney's Office. It is  
23 an invitation only. They couldn't just walk off the  
24 street and walk into the meeting.

25 Q. But every member was permitted to attend the

Commander Gingell - Examination

1 meetings?

2 A. Pardon?

3 Q. Every member was permitted to attend the  
4 meetings?

5 A. I don't know how they arranged that, sir.

6 Q. Did you ever hear of any member of the Task Force  
7 being excluded from a meeting?

8 A. I wasn't the one sitting there saying who could come  
9 and go.

10 Q. So the answer to my question is no, you never heard  
11 of anybody being excluded?

12 A. I never did hear of anybody being excluded, no.

13 MR. STERN: The Court's indulgence?

14 (Pause.)

15 BY MR. STERN::

16 Q. And sir, without getting into particulars, you  
17 talked about the questions you were asked at your  
18 30(b)(6) deposition, correct?

19 A. Pardon?

20 Q. You were asked by his Honor and you testified just  
21 now about what happened at your deposition?

22 A. I said Carole Rendon was not there.

23 Q. I am sorry. Your first deposition you talked about  
24 Ms. Rendon being there, right?

25 A. That's right.

Commander Gingell - Examination

1 Q. And without getting into particulars, you answered  
2 all the questions you were asked?

3 A. Yes.

4 Q. You answered all those questions in front of people  
5 that weren't Ms. Rendon?

6 A. Pardon?

7 Q. I withdraw that.

8 You did not decline to answer a single  
9 question that Ms. Rendon asked, correct?

10 A. There may have been some questions I couldn't  
11 answer.

12 Q. But not that you refused to?

13 A. I did to the best of my ability, sir.

14 MR. STERN: Court's indulgence?

15 (Pause.)

16 MR. STERN: I have nothing further.

17 Actually, give me 30 seconds, your Honor, if I may.

18 THE COURT: Okay.

19 (Pause.)

20 MR. STERN: Nothing further, your Honor.

21 Thank you.

22 THE COURT: Thank you, Mr. Stern.

23 Mr. Weinberger?

24 - - - - -

25 EXAMINATION CONTINUED

## Commander Gingell - Examination

1 BY MR. WEINBERGER::

2 Q. Sticking with the Opioid Task Force for a moment,  
3 were there times when you would have occasion to meet  
4 with Ms. Rendon outside of those meetings in smaller  
5 groups?

6 A. There were meetings -- I really don't remember  
7 meeting specifically with her at the drug investigation  
8 meeting, but we would meet, if we were going to have a  
9 meeting, we would meet in Mr. Dettelbach's office with  
10 all the folks involved and discuss what we didn't want to  
11 put out public; what we did.

12 Occasionally, I would get a phone call from  
13 either Joe Pinjuh, Craig Tame, once in a while Dave  
14 Sierleja, who all worked in the U.S. Attorney's Office,  
15 and would say, "hey, I am sitting here with Carole," and  
16 it might have been a gun -- you know, a gun violence  
17 issue or might have been an opiate issue -- but not many  
18 of those and an e-mail every, you know, so often.

19 Q. Okay. And in a separate -- on a separate issue from  
20 the Task Force -- and I think your declaration deals with  
21 the STANCE meetings?

22 A. Correct.

23 Q. What does STANCE stand for?

24 A. It is STANCE, is a gun violence program, and there  
25 is different components to it. Law enforcement is one.

## Commander Gingell - Examination

1 The FBI is the lead in that. That's where the  
2 subcommittee meets over there, and then the main  
3 committee, the executive committee meets at the U.S.  
4 Attorney's Office in the same room as the Opiate Task  
5 Force.

6 Q. And did there come a time when the STANCE meetings  
7 evolved into discussions about the opioid crisis?

8 A. A lot, especially in '16 and '17.

9 Q. And those meetings only involved law enforcement  
10 personnel, correct?

11 A. Well, there was probation there and reentry folks.

12 Q. Okay. And was Ms. Rendon present during the course  
13 of those meetings?

14 A. Somewhat, yes.

15 Q. And with respect to those meetings, did you have an  
16 expectation that they were confidential?

17 A. Same thing, yes, sir.

18 Q. And in general, with respect to the opioid meetings,  
19 despite the people in the room, did you have an  
20 expectation, Commander, that those meetings were  
21 confidential and specific information, for example, law  
22 enforcement tactics, et cetera, would not be disclosed to  
23 the public?

24 A. Yes, I did.

25 Q. How did you arrive at that expectation?

## Commander Gingell - Examination

1 A. Well, I heard other conversations that I didn't  
2 expect to hear from other entities, and our own  
3 conversations about what we were trying to do.

4 As I said, after the comfort level kind of  
5 rose up, we started to talk about things we wouldn't talk  
6 about in public. I wouldn't go to a community meeting  
7 and talk about it, but amongst these folks, again, trying  
8 to solve this horrendous problem that none of us had ever  
9 faced before, we realized we had to, so to speak, put our  
10 cards on the table to try to get help in areas that  
11 overlapped or in the development of our strategies with  
12 HIDI and such, with Narcan, and those kind of things.

13 MR. WEINBERGER: That's all I have.

14 MR. STERN: Your Honor, on STANCE, your  
15 Honor, that's a new topic.

16 THE COURT: Very briefly.

17 EXAMINATION CONTINUED

18 BY MR. STERN:

19 Q. Commander, without getting into all the particulars,  
20 you would agree with me that there were non law  
21 enforcement members of STANCE, correct?

22 A. Yes.

23 Q. Including members, for example, the Chamber of  
24 Commerce, right?

25 A. I am not sure of all the members.

## Commander Gingell - Examination

1 Q. National Council of Jewish Women?

2 A. Yes.

3 Q. And sir, isn't it true that STANCE didn't ever get  
4 involved in opioid-related issues because it is not  
5 really their mission?

6 A. The mission is gun violence, sir, but because of the  
7 magnitude of the crisis and all the deaths going on in  
8 our county that everybody was trying to get a handle on,  
9 we talked about it because a lot of the same people that  
10 were at the Opiate Task Force met every month. The  
11 STANCE meeting met every month, so there were  
12 conversations fairly regularly on what was going on with  
13 the opiate issue.

14 Q. Sir, at your deposition in November, you were asked  
15 this question and you gave this answer:

16 "Question: What is STANCE?

17 "Answer: It is a violent gun program. It  
18 has been in existence — it is basically — it is a  
19 meeting, and it is held at the U.S. Attorney's Office.  
20 Carole was part of that. It is the FBI, ATF,  
21 U.S. Attorney, County Prosecutor, parole, a bunch of law  
22 enforcement factions along with reentry, and you know, it  
23 is just a huge effort to kind of cut crime in a number of  
24 different ways, but it is focused on gun crime.

25 "Question: Does it ever get involved in

## Commander Gingell - Examination

1       opioid related issues?

2                       "Answer: No. That's really not their  
3       mission.

4                       That was your testimony in November,  
5       correct?

6       A. Right. The members of that and except for DEA,  
7       Cleveland Police, County Prosecutor, the members of that  
8       Task Force, their mission is gun violence. So the gun  
9       violence is what we discussed.

10                      It is what we work on just like we do at the  
11       Opioid Task Force, but invariably, we would discuss  
12       what's going on in the opiate issue, with the opiate  
13       issue.

14       Q. Everybody who is a member of STANCE participated or  
15       was permitted to participate in those discussions?

16       A. Again, I don't know how the invitations went, but  
17       yes.

18       Q. Well, you knew the representative for the National  
19       Council of Jewish Women was there, correct?

20       A. I do remember her.

21                      MR. STERN: All right. I have nothing  
22       further.

23                      THE COURT: All right. Thank you,  
24       Commander. You may step down. You can stick around, but  
25       I am sure you have got some important duties.

Dr. Gilson - Examination

1 THE WITNESS: Thank you, sir.

2 THE COURT: But from my standpoint, you are  
3 excused. Thank you, sir.

4 All right. I would like to have a couple of  
5 questions of Dr. Gilson.

6 (Pause.)

7 THE COURT: Good afternoon, Doctor. If you  
8 could raise your right hand.

9 DR. THOMAS GILSON

10 **called as a witness and being first duly sworn, was**  
11 examined and testified as follows:

12 EXAMINATION

13 BY THE COURT::

14 Q. Doctor, thank you for coming in.

15 If you could give us your name and position  
16 please?

17 A. My name is Thomas Gilson. Last name is G-i-l-s-o-n.  
18 I am the Cuyahoga County Medical Examiner's and Crime  
19 Laboratory Director.

20 Q. And how long have you had that position?

21 A. Seven and-a-half years.

22 Q. Okay. You submitted a sworn declaration in  
23 connection with this motion. Is that correct?

24 A. Yes, I did.

25 Q. And you were deposed, at least, once in connection

## Dr. Gilson - Examination

1 with this litigation?

2 A. I was actually deposed twice, your Honor.

3 Q. Do you recall when you were deposed?

4 A. January 11th was my 30(b)(6) deposition on behalf of  
5 the County, and it was about a week and-a-half later -- I  
6 don't remember the date -- but that was my fact  
7 deposition.

8 Q. All right. Were you questioned by Ms. Rendon on  
9 either or both of those occasions?

10 A. She was not present for either one.

11 Q. Okay. Were you questioned by anyone -- I will go  
12 back. You are a member -- have been a member of the U.S.  
13 Attorneys' Opioid and Heroin Task Force or Heroin and  
14 Opioid Task Force?

15 A. Yes, I have been.

16 Q. Were you questioned by anyone at either of those  
17 depositions about your participation in the Task Force  
18 and what was discussed at meetings?

19 A. Yes, I was.

20 Q. How did you feel -- well, who questioned you about  
21 that?

22 A. I believe it was the counsel for Purdue Pharma.  
23 They did the bulk of the questioning in both depositions,  
24 and as I recall, the topics were just, you know, were  
25 these public -- was this information out in the

Dr. Gilson - Examination

1 public?

2 Q. But Ms. Rendon wasn't -- didn't participate in  
3 either of those depositions --

4 A. No.

5 Q. -- to your recollection?

6 A. No, your Honor. She was not present, and I know in  
7 the 30(b)(6), we also had asked whether she was on the  
8 phone. She was not, so I believe she was not on the  
9 phone for my fact deposition, either.

10 THE COURT: Okay. Thank you. Then I don't  
11 have any further questions of you. I don't know if  
12 either side wishes to question you further.

13 MR. WEINBERGER: Yes, your Honor, if I  
14 may?

15 THE COURT: All right. Mr. Weinberger?

16 EXAMINATION CONTINUED

17 BY MR. WEINBERGER::

18 Q. Do you know whether or not there were any  
19 lawyers from Baker Hostetler, Ms. Rendon's law firm,  
20 either present or on the phone for either of your  
21 depositions?

22 A. Yes, I do.

23 Q. And what is your knowledge about that?

24 A. There were attorneys, certainly at my fact  
25 deposition, also I believe at my 30(b)(6) deposition.

## Dr. Gilson - Examination

1 Q. Were you asked questions, Dr. Gilson, related to  
2 when it was that from your perspective as Medical  
3 Examiner of Cuyahoga County you became aware of an opioid  
4 epidemic or crisis?

5 A. That was covered in my deposition, yes.

6 Q. Was there extensive questions about that issue  
7 raised with you?

8 A. I mean, they were both very long days, yes. I am  
9 sure.

10 Q. Okay. And did your involvement as a member of the  
11 Task Force of the U.S. Attorney's Task Force, were you  
12 questioned about when you, as a member of that Task Force  
13 or when the Task Force, in general, became aware of  
14 whether there was an epidemic related to opioids within  
15 the County? Was that part of the questioning?

16 A. I don't remember that as a specific question. We  
17 were talking about kind of how we came to understand the  
18 epidemic, and that certainly would have -- had bearing on  
19 that topic.

20 Q. Okay. As Medical Examiner for the County, did there  
21 come to be an occasion where you and Ms. Rendon and other  
22 members of the Medical Examiner's Office sat together in  
23 an office, in a confidential matter to discuss strategies  
24 for the prosecution of opioid-related deaths?

25 A. Yes. In 2016, we met at the Medical Examiner's

Dr. Gilson - Examination

1 Office, myself and administrator Hugh Shannon were  
2 present on my side. I know Ms. Rendon was also present,  
3 and there were other people from the U.S. Attorney's  
4 Office.

5 I am not exactly sure who was present there,  
6 but she was not the only person from the office, and the  
7 only other one I distinctly remember being there was  
8 Joseph Pinjuh, an Assistant U.S. Attorney.

9 Q. And your job, as a Medical Examiner, was ultimately  
10 to provide expert testimony, if necessary, with respect  
11 to prosecutions of drug dealers and the like associated  
12 with opioid-related deaths, correct?

13 A. There was an interest in prosecuting some of the  
14 drug dealers under a death specification, and we were  
15 talking about strategies and expert testimony that would  
16 be provided on those deaths that occurred in our  
17 jurisdiction, in Cuyahoga County.

18 Q. And did you consider those conversations that you  
19 had with Ms. Rendon -- by the way, Ms. Rendon was a  
20 member of the U.S. Attorney's Office at the time,  
21 correct?

22 A. Yes, she was.

23 Q. And did you consider those conversations to be of a  
24 confidential or privileged nature between you and the  
25 members of the U.S. Attorney's Office, including

## Dr. Gilson - Examination

1 Ms. Rendon?

2 A. Yes, I did.

3 Q. At some point, did you become aware of the fact that  
4 Ms. Rendon was representing one of the manufacturers of  
5 opioid pills or products?

6 A. Yes, I did.

7 Q. And how did you feel about her representing an  
8 opioid manufacturer in light of your involvement with her  
9 and her involvement in the Opioid Task Force?

10 A. On a personal level, I was very disappointed  
11 because, you know, we had worked a lot on something that  
12 was very damaging to our community. Professionally, I  
13 always felt free to speak at the U.S. Attorney's Task  
14 Force, and I think it was a place where we could exchange  
15 ideas. I don't feel like anything that was said there  
16 was untruthful.

17 I don't know how that would impact, you  
18 know, any of these proceedings. And yeah, I think some  
19 of it was more my personal feelings; some of it was, you  
20 know, professionally wondering what impact that would  
21 have on it but my feeling personally that I had misled  
22 anybody in what I had shared at that meeting.

23 Q. I was not suggesting that.

24 You respect Ms. Rendon and had a good  
25 relationship with her while she was with the U.S.

## Dr. Gilson - Examination

1 Attorney's Office?

2 A. I certainly did. I think she was a wonderful  
3 colleague and a great attorney, and we co-authored a  
4 paper together that I thought her contributions were very  
5 helpful and kind of getting a side across to my  
6 professional colleagues that was important.

7 Q. And during your interaction with her, you placed  
8 your trust as the Medical Examiner of this County in her,  
9 did you not?

10 A. Sure.

11 MR. WEINBERGER: Thank you. That's all I  
12 have.

13 MR. PARKER: Your Honor, John Parker. If I  
14 can, I will go back.

15 THE COURT: Okay.

16 EXAMINATION CONTINUED

17 BY MR. PARKER::

18 Q. Good afternoon, Dr. Gilson.

19 A. Good afternoon, sir.

20 Q. I don't think we met. I am John Parker from Baker  
21 and Hostetler.

22 I want to ask you a few questions, if I can,  
23 first, about the Opioid Task Force. You were a member of  
24 that Task Force?

25 A. Yes, I was.

Dr. Gilson - Examination

1 Q. And you came to some meetings. Is that right?

2 A. I -- there were really two task forces in the  
3 County. One was from the Board of Health, which I was  
4 more actively participating in. The U.S. Attorneys, I  
5 certainly participated in a fair amount, but I would say  
6 the more active participant from my office was my  
7 administrator, Hugh Shannon.

8 Last name is S-h-a-n-n-o-n, and he, I think,  
9 missed -- he missed one or two meetings. That's as many  
10 as he missed in the entire duration of the Task Force,  
11 and we were both active in terms of planning up towards  
12 the summit in 2013, which is what I see as the genesis of  
13 the Task Force.

14 Q. It is a great point, Dr. Gilson.

15 So the Court is the clear, there were two  
16 task forces: One, the Cuyahoga County Opioid Task Force,  
17 correct?

18 A. That's from the Board of Health, yeah.

19 Q. Yes. And you were an active participant in that,  
20 correct?

21 A. Yes.

22 Q. And Ms. Rendon never went to any of those  
23 meetings?

24 A. I never remember her being there.

25 Q. And the other Task Force was the U.S. Attorney

## Dr. Gilson - Examination

1 Heroin and Opioid Task Force, correct?

2 A. Yes.

3 Q. And you went to some of those meetings, not all but  
4 some?

5 A. As many as my schedule would permit, but yeah, but I  
6 had representation from the office at virtually all of  
7 them.

8 Q. But you were there enough to know there was lots of  
9 members at those meetings, correct?

10 A. That's correct.

11 Q. There was the Cleveland Clinic, MetroHealth,  
12 correct?

13 A. There were physicians from there, yes.

14 Q. Okay. There were representatives of the Cuyahoga  
15 County Common Pleas Court, Judge Synenberg, Judge Matia,  
16 correct?

17 A. I had seen them there, yes.

18 Q. And Channel 3, Monica Robins?

19 A. I don't remember seeing her there. She was at the  
20 summit I know.

21 Q. Did you see Bill Shields there, also a local anchor  
22 man. Do you know who Bill Shields is?

23 A. I have to confess, I don't know — if he fell in  
24 front of me if I'd recognize him.

25 Q. He will be disappointed to learn that.

## Dr. Gilson - Examination

1 A. But don't tell him I said so.

2 (Laughter.)

3 Q. Okay. There were some of the members from the media  
4 that attended some of the Task Force meetings, however,  
5 correct?

6 A. I can't say that.

7 Q. Fair enough. There were people from educators,  
8 from various education facilities, or am I confusing the  
9 other Task Force, Baldwin Wallace, and some of those  
10 schools?

11 A. There were representatives on the Board of Health  
12 Task Force about education because one of the initiatives  
13 we were trying to consider was whether or not it would be  
14 advantageous to start school programs for instruction.

15 So I would associate, at least, the person I  
16 worked with most closely there with the Board of Health  
17 Task Force. She may have been present. You know, I  
18 didn't really keep track of everybody present there. She  
19 may have been present at the U.S. Attorney's Task Force  
20 as well.

21 Q. At the U.S. Attorney's Task Force, there were  
22 recovering addicts, correct?

23 A. At least a couple.

24 Q. So they were private citizens, weren't they?

25 A. I mean, we are all private citizens. They were

## Dr. Gilson - Examination

1 there in their capacity as representatives of the  
2 recovering community.

3 Q. And never during one of the meetings that you  
4 attended, Doctor, did anybody say what we're discussing  
5 in these meetings is confidential, don't talk about it  
6 outside the room, did they?

7 A. That's not true.

8 Q. That was said?

9 A. I distinctly recall Commander Gingell saying at one  
10 point we were talking about a specific topic, that he did  
11 not want that disseminated.

12 Q. And he was telling that to the recovering addict  
13 community and to all these people, perhaps the media,  
14 that was in the room?

15 A. He just told everybody in the room that that wasn't  
16 to be shared, yeah.

17 Q. And he took it on their word that they would do  
18 that. Nobody had to sign a non disclosure agreement, did  
19 they?

20 A. I never did.

21 Q. You made presentations at some of the U.S.  
22 Attorney's Task Force meetings, didn't you?

23 A. Yes.

24 Q. Among the things you presented were the deaths going  
25 on in the community, all sorts of statistics regarding

## Dr. Gilson - Examination

1 the opioid crisis, correct?

2 A. That's correct.

3 Q. And you didn't mean for any of those to be  
4 confidential, did you?

5 A. They are on our website. I mean, we shared a lot of  
6 that information. I may have shared interpretations of  
7 it. I really wasn't focusing on whether that was going  
8 to be more widely disseminated.

9 Q. No. In fact, you are right, Doctor. All of that  
10 information is on the Cuyahoga County Medical Examiner's  
11 website, isn't it, the number of fentanyl deaths, the  
12 number of heroin deaths, the carfentanil deaths related  
13 in the County. All of those things just as an example  
14 are publicly available on the website, aren't they?

15 A. I am not sure if I follow exactly what you mean.  
16 Everything that I discussed at that Task Force is on the  
17 website? That is not true.

18 Q. Did you publish on the website the number of  
19 fentanyl and carfentanil-related deaths in Cuyahoga  
20 County?

21 A. Yes, I did.

22 Q. And did you put things on the website about new  
23 trends like fake prescription pills actually made out of  
24 fentanyl, warnings like that on your website?

25 A. Absolutely.

## Dr. Gilson - Examination

1 Q. And those are things you discussed openly in the  
2 U.S. Attorneys and Opioid Task Force, correct?

3 A. I would have discussed them there, yes.

4 Q. And sir, you didn't intend for anything you said,  
5 anything that the Medical Examiner's Office said to be  
6 confidential at those meetings, did you?

7 A. I don't remember to be honest because I shared, you  
8 know, interpretations and analysis of some of that data,  
9 and as I say, I thought it was a free-ranging forum. I  
10 was not really concerned about confidentiality that much  
11 on my part because the people in the room were  
12 stakeholders trying to address a really very damaging  
13 crisis in our community.

14 Q. And sir, wasn't one of the objectives of the Task  
15 Force to disseminate to the community the information  
16 that the organizations were sharing?

17 A. Sure. I think, you know, some of it. I don't know  
18 that all of that was intended. It wasn't just — you  
19 know, we published minutes from all our meetings.

20 Q. I want to switch gears for just a moment and  
21 talk about the meeting you had with Ms. Rendon in the  
22 Medical Examiner's Office. I believe you said that was  
23 in 2016?

24 A. My recollection — and I tried to go back and  
25 look — it's early 2016.

Dr. Gilson - Examination

1 Q. All right. And Mr. Pinjuh came along with her and  
2 other representatives of the U.S. Attorney's Office.

3 A. And Craig Tame, and I don't remember if there were  
4 other folks there.

5 Q. All right. And the purpose of that meeting was for  
6 the U.S. Attorney's Office to explain to you what the  
7 Burrage versus United States Supreme Court opinion  
8 required to support a possible sentencing enhancement in  
9 federal court, right?

10 MR. WEINBERGER: Objection, your Honor. We  
11 are getting very close to the concerns that I have?

12 THE COURT: Well, I will allow the subject.  
13 Was that one of the subjects you talked about?

14 A. We certainly talked about that, yes.

15 Q. In fact, to address Mr. Weinberger's objection, you,  
16 Ms. Rendon, and Mr. Pinjuh published a four-page article  
17 about that very subject that got published. Isn't that  
18 right?

19 A. Yes, I did.

20 Q. You didn't mean for that to be confidential, did  
21 you, sir?

22 A. No.

23 Q. No. In fact, that article was subsequently  
24 published in the Academic Forensic Pathology, the  
25 official publication of the National Association of

## Dr. Gilson - Examination

1 Medical Examiners, right?

2 A. That's correct.

3 Q. And the purpose of that was to try to get enhanced  
4 sentencing, and you wanted every coroner in the country  
5 to know about that possibility, didn't you?

6 A. My purpose in publishing that was to explain what  
7 the burden was that federal prosecutors were facing, so  
8 as an educational tool to understand what was implied  
9 under Burrage when there were mixed intoxications.

10 The other purpose of it -- and granted it is  
11 probably not a legal journal that is read by a lot of  
12 attorneys -- was also to say this is kind of the medical  
13 side of what I cannot, you know, honestly say in a  
14 mixture as an interpretation.

15 So it wasn't that I was doing anything more  
16 than trying to give a factual representation is how I  
17 understood that in association with good attorneys to  
18 fill in the legal side of it.

19 Q. And Doctor, Ms. Rendon came to your office once, and  
20 the Burrage decision was what she discussed, correct?  
21 She only came once to the Medical Examiner's Office to  
22 meet with you, correct?

23 A. As far as I remember. We were discussing strategies  
24 about prosecutions, and that would have involved the  
25 Burrage decision.

## Dr. Gilson - Examination

1 Q. And you published those strategies in an article  
2 publicly disseminated, so every single prosecutor  
3 and Medical Examiner in the country that read the  
4 article would have benefit of that. Isn't that correct,  
5 Doctor?

6 A. And every defense attorney I hoped, too.

7 Q. That's right. It wasn't meant to be confidential,  
8 was it, sir?

9 A. No.

10 Q. You gave -- I think the Court asked you -- you gave  
11 two depositions in this case?

12 A. Yes, I did.

13 Q. And one individually and one as a 30(b)(6)  
14 representative of the County?

15 A. That's correct.

16 Q. And there were a lot of topics. I won't go through  
17 them, but you had a lot of topics you had to prepare for  
18 in that 30(b)(6) deposition, correct?

19 A. Yes, I did.

20 Q. And you reviewed a lot of documents to prepare for  
21 your deposition and ask whatever questions you thought  
22 might come up, correct?

23 A. I reviewed a lot of documents. I did a lot of  
24 preparation with counsel for the County and tried to  
25 be as prepared as the County's representative as I

Dr. Gilson - Examination

1 could.

2 Q. But isn't it true, Doctor, that every document you  
3 prepared or you reviewed in connection with preparation  
4 for your deposition so you could answer whatever  
5 questions the defense might ask you you testified were  
6 publicly available documents most on the County's  
7 website. Isn't that true, sir?

8 Do you remember testifying to that at your  
9 deposition?

10 A. I don't, but I mean, most of the documents I  
11 reviewed are publicly available.

12 Q. You don't recall at your deposition saying that to  
13 the best of your knowledge everything that you reviewed  
14 was publicly available?

15 A. I don't remember, but it is certainly not untrue as  
16 I sit here today.

17 Q. You've also testified before Congress. Is that  
18 right?

19 A. Yes, I did.

20 Q. And the purpose of your testimony was to share  
21 everything about what was happening in the opioid crisis  
22 in Cuyahoga County. Is that correct?

23 A. It would be long testimony if it was everything. I  
24 gave an overview of what was going on in the crisis at  
25 that time, and the specific matter the Senate would have

Dr. Gilson - Examination

1 under consideration was about regulating parcels through  
2 the U.S. Postal Service, UPS and FedEx and how drugs were  
3 entering the country.

4 Q. And before Congress, you testified about the  
5 resources of the Medical Examiner's Offices as they had  
6 been affected by the opioid crisis, correct?

7 A. I believe I did, yes.

8 Q. You even submitted a budget to Congress entitled  
9 "The Cost of Heroin-Fentanyl Crisis, Fiscal Impacts to  
10 the Cuyahoga County Medical Examiner's Office Operation  
11 Update," didn't you?

12 A. I don't remember if there is a document like that.  
13 I don't remember if it was submitted to Congress.

14 Q. You don't dispute that though. You just don't  
15 remember?

16 A. I don't know.

17 Q. You certainly didn't mean for your Congress  
18 testimony to be confidential, did you?

19 A. No.

20 Q. And in fact -- well, I think I've asked that  
21 question.

22 MR. PARKER: Thank you very much, Doctor?

23 THE COURT: All right. Doctor, I just have  
24 one final question.

25 EXAMINATION CONTINUED

1 BY THE COURT::

2 Q. I think your words were, if I got it correctly, you  
3 were personally very disappointed when you learned that  
4 Ms. Rendon was representing a drug manufacturer in this  
5 case.

6 My question is: Will this -- do you believe  
7 this will have any impact upon your participation in the  
8 Heroin and Opioid Task Force or any future Task Force  
9 coordinated by the U.S. Attorney's Office?

10 A. No. I remain very committed to helping the  
11 community.

12 THE COURT: Okay. Thank you. You may step  
13 down. You can stay for the rest of this, but I am sure  
14 you have a lot of other duties. But as far as I am  
15 concerned, you are excused.

16 THE WITNESS: Just a few. Thank you very  
17 much.

18 THE COURT: All right. I didn't have any  
19 other questions of any witnesses, and I am not looking to  
20 prolong this. If either side has a brief witness that  
21 they want to present, witness or witnesses, I will  
22 consider it, but again, I am not -- I've asked the  
23 questions of the witnesses that I wanted to ask.

24 MR. WEINBERGER: Your Honor, on behalf of  
25 the Plaintiffs, we would call to the stand Chief Calvin

1 Williams of the city of Cleveland. That's what we are  
2 considering doing. If I may with all do respect, how do  
3 you see the rest of this hearing playing out? For  
4 example --

5 THE COURT: I don't -- I don't need any --  
6 the only argument I need is anything new that someone  
7 wants to add based on the testimony today. I've read  
8 everyone's very thorough memoranda. I certainly don't  
9 need anyone to summarize the arguments or paraphrase the  
10 arguments or say them again.

11 But if anyone has anything additional  
12 to say based on the testimony today -- obviously, no  
13 one had heard that testimony -- I would be interested in  
14 that brief argument, but that's -- I don't need much  
15 more.

16 MR. WEINBERGER: From the Plaintiffs'  
17 perspective --

18 THE COURT: And was the Chief -- well, the  
19 Chief was, of course, deposed. I actually read the  
20 deposition transcript.

21 MR. WEINBERGER: Yes. And I can tell you  
22 that he was not involved in the Task Force but was, as  
23 you might expect, intimately involved in the consent  
24 decree.

25 THE COURT: I understand that. He was not

1 involved in the Task Force. If you think you have a few  
2 brief questions about, I guess, about the deposition or  
3 about how he feels or has reacted, I would permit that,  
4 but I don't need -- I don't want a lot of long  
5 questioning. I don't know if the Defendants are going to  
6 present any witnesses. So you are proposing to have  
7 brief questioning of Chief Williams?

8 MR. WEINBERGER: Right.

9 THE COURT: From the defense side, what  
10 about you, Mr. Parker or Mr. Stern?

11 MR. PARKER: We would probably call  
12 Ms. Rendon, your Honor.

13 THE COURT: Okay. All right. Well, I will  
14 have some brief questions of Chief Williams  
15 Mr. Weinberger if you wish to call him.

16 MR. WEINBERGER: I will.

17 THE COURT: But I want to keep them brief.

18 MR. WEINBERGER: And as far as argument,  
19 your Honor, the concerns we have, there is no question,  
20 the issues have been fully briefed, but since the filing  
21 of our reply brief, which we expect would be the end of  
22 the briefing, you have granted Endo the right to file a  
23 sur-reply. You've also allowed other co-Defendants and  
24 the co-Defendant manufacturers to file a brief, and  
25 you've also just a few minutes ago allowed into the

## Chief Williams - Examination

1 record a letter --

2 THE COURT: I didn't invite any of these  
3 filings, but it didn't make sense to just say you can't  
4 file them.

5 MR. WEINBERGER: No, nor am I suggesting  
6 that, your Honor, but I think I would be remiss in not  
7 being able to comment on these recent filings that we  
8 didn't expect were going to occur.

9 THE COURT: Well, I might allow brief  
10 comment on something of the new filing. So let's hear  
11 from the Chief first.

12 (Pause.)

13 THE COURT: Good afternoon. If you could  
14 raise your right hand.

15 **CHIEF CALVIN D. WILLIAMS**  
16 **called as a witness and being first duly sworn, was**  
17 **examined and testified as follows:**

18 EXAMINATION

19 THE COURT: Thank you.

20 BY MR. WEINBERGER::

21 Q. Would you please state your full name and your  
22 position with the city of Cleveland.

23 A. Calvin Daniel Williams. I am the Chief of Police  
24 for the city of Cleveland.

25 Q. And how long have you held that position?

Chief Williams - Examination

1 A. I have been the chief since February 10th, 2014.

2 Q. All right. As a result of holding that position,  
3 did you have involvement in the negotiations of a  
4 settlement resulting in a consent decree with the  
5 U.S. Attorney's Office involving the Cleveland Police  
6 Force?

7 A. Yes, I did.

8 Q. Specifically -- well, in general terms, what was  
9 your involvement in that?

10 A. In general terms, I represented to the Division of  
11 Police in both the leadup with the investigation in  
12 supplying documents for the Department of Justice as well  
13 as the negotiation of the actual settlement agreement  
14 itself and now currently the implementation of that  
15 settlement agreement.

16 Q. And in the course of negotiating the consent decree  
17 and your involvement in that process, did you have  
18 involvement with Carole Rendon?

19 A. Yes.

20 Q. And her position was with the U.S. Attorney's Office  
21 at the time?

22 A. That's correct.

23 Q. And as part of the negotiations, were you required  
24 to disclose information regarding the operation of the  
25 Cleveland Police Department in a confidential setting?

## Chief Williams - Examination

1 A. Yes, we were.

2 Q. Can you just give the Court a brief overview of  
3 the kind of information that you were required to  
4 provide to the U.S. Attorney's Office, including Carole  
5 Rendon, to carry out the potential consent decree and  
6 settlement?

7 A. Yes. The city of Cleveland as well as the Division  
8 of Police was required to give any and all documentation  
9 on our staffing. The resources and deployment of  
10 divisional assets as far as computers, cars, things like  
11 that, how the division operates from top to bottom, all  
12 that information was required in the consent decree  
13 process for the U.S. Department of Justice.

14 Q. And was Ms. Rendon a recipient of this information?

15 A. Yes.

16 Q. You gave your deposition in this case?

17 A. Yes, I did.

18 Q. And was Ms. Rendon present at the deposition?

19 A. Yes, she was.

20 Q. And did she question you about information  
21 concerning the use of Cleveland Police Department  
22 resources in reference to the opioid epidemic and crime  
23 related to opioids?

24 A. Yes, she did.

25 Q. Specifically what areas did she ask about?

## Chief Williams - Examination

1 A. She asked a little bit about the Task Force  
2 operations, the Opioid Task Force itself, but more  
3 specifically, we talked or her questions concerned the  
4 settlement agreement, the resources that were supplied or  
5 that the city of Cleveland had to supply to be in  
6 compliance with the settlement agreement and work through  
7 that process.

8 Q. And did that include questions about the  
9 availability and use of Narcan?

10 A. Yes.

11 Q. And did it involve information about drug  
12 prosecutions and the like?

13 A. I believe we talked about the prosecutions that were  
14 related to our HIDI unit within our division.

15 Q. What is the HIDI unit?

16 A. The Heroin Involved Death Investigation unit that is  
17 a part of our narcotics unit.

18 Q. From your perspective, as the witness being  
19 questioned by Ms. Rendon, was she utilizing information  
20 that was generated from the consent decree negotiations  
21 in her questioning of you?

22 A. Yes. I thought that was her purpose there,  
23 yes.

24 Q. And can you explain a little bit more how -- what  
25 occurred and what you experienced in that questioning?

## Chief Williams - Examination

1 A. Well, the questions were along the lines of exactly  
2 things that were part of the settlement agreement, things  
3 that were part of divisional operations, things that were  
4 part of Task Force operations with the Cuyahoga County  
5 and Opioid Task Force itself.

6 Q. I am going to ask you a question the Court has asked  
7 other witnesses, and that is, from your position as Chief  
8 of Police, how did you feel about being asked these  
9 questions by counsel, Ms. Rendon, when she was  
10 representing the Defendant manufacturer in relation to  
11 the fact that she had previously been involved in this  
12 consent decree?

13 A. Honestly, your Honor, I felt betrayed. I felt that  
14 this is a person that we worked side by side with, both  
15 during the consent decree process and during this opioid  
16 crisis that had intimate knowledge of everything we are  
17 doing, everything that we are trying to accomplish, that  
18 actually spearheaded a lot of this? And now this person  
19 is sitting across the table from me basically using  
20 information against us.

21 Q. Now, when she was negotiating the consent decree on  
22 behalf of the U.S. Attorney's Office, she was in an  
23 adverse position to the city of Cleveland at that time,  
24 correct?

25 A. Yes, she was, but that process, we also agreed

## Chief Williams - Examination

1 once the settlement agreement was reached actually in  
2 Judge Oliver's chamber that it would be a collaborative  
3 approach to implementing the consent decree process.

4 Q. So in spite of the fact that the issues that  
5 confronted the city of Cleveland were brought forward by  
6 the U.S. Attorney's Office and Ms. Rendon, the process of  
7 proceeding towards the consent decree was a collaborative  
8 process between you, members of the city of Cleveland,  
9 and the U.S. Attorney's Office, correct?

10 A. To the extent possible, yes.

11 Q. Including Ms. Rendon, correct?

12 A. Yes.

13 MR. WEINBERGER: Thank you, your Honor.

14 MR. PARKER: Few questions, your Honor?

15 THE COURT: Yes, Mr. Parker.

16 EXAMINATION CONTINUED

17 BY MR. PARKER::

18 Q. Good afternoon, Chief Williams.

19 A. Afternoon.

20 Q. You are not a member of the U.S. Attorney's Heroin  
21 and Opioid Task Force, are you?

22 A. Yes, I am. I defer my membership to Commander Gary  
23 Gingell.

24 Q. You don't go to their meetings.

25 A. No.

## Chief Williams - Examination

1 Q. And you are not aware of who actually attends those  
2 meetings?

3 A. Through e-mail correspondence and reports from  
4 Commander Gingell, yes.

5 Q. And did you get the e-mail that had 108 recipients  
6 for people who attended the U.S. Attorney's Opioid and  
7 Heroin and Opioid Task Force?

8 A. I can't recall that exact e-mail, but yes, I do get  
9 e-mails with dozens and dozens of people listed on the  
10 e-mails, yes.

11 Q. For the -- who are attendees or members of the U.S.  
12 Attorney's Heroin and Opioid Task Force?

13 A. Both, yes.

14 Q. I want to ask you a few questions about the consent  
15 decree.

16 You said you felt betrayed when Ms. Rendon  
17 went into private practice and decided to represent  
18 companies when she had been on the other side of the  
19 table representing the federal government against the  
20 city of Cleveland negotiating the consent decree. Did I  
21 understand that testimony correctly?

22 A. No.

23 Q. What I did understand, the federal government and  
24 the Justice Department, in particular, was looking into  
25 the practices of the city of Cleveland that led to the

## Chief Williams - Examination

1 consent decree, correct?

2 A. I do understand that the mayor of the city of  
3 Cleveland invited the Department of Justice to review the  
4 Division of Police, yes.

5 Q. Well, it was an investigation by the Department of  
6 Justice into the alleged use of excessive force in  
7 violation of constitutional rights by the Cleveland  
8 Division of Police. Isn't that correct?

9 A. That's part of it, yes.

10 Q. That's what you testified at your deposition it was  
11 about, correct?

12 A. I don't recall that exactly.

13 Q. But it is right?

14 A. I'm sorry?

15 Q. That's a correct statement: It was an investigation  
16 by the Department of Justice into the alleged use of  
17 excessive force and a violation of constitutional rights  
18 by the Cleveland Division of Police, correct?

19 A. That was part of the investigation, yes.

20 Q. And the Department of Justice opened that  
21 investigation in March of 2013, correct?

22 A. As far as I remember, that's correct.

23 Q. And findings were announced on December 4th, 2014,  
24 correct?

25 A. That seems like the timeline, yes.

## Chief Williams - Examination

1 Q. And the investigation had nothing to do with the  
2 Cleveland Division of Police's response to the opioid  
3 abuse crisis, correct?

4 A. The investigation, no, it did not.

5 Q. Okay. It was about excessive force, correct, among  
6 other things, but it was -- that was the primary issue  
7 that was being investigated by the Justice Department,  
8 correct?

9 A. Correct.

10 Q. And in your view, the opioid crisis, as tragic as it  
11 is and the consent decree, are totally different matters,  
12 aren't they?

13 A. Yes and no.

14 Q. Well, you are aware that there were findings issued  
15 by the Department of Justice, aren't you?

16 A. Yes, I am.

17 Q. And those are a public document, aren't they?

18 A. Yes.

19 Q. And that was 59 pages I believe long, and it is  
20 published on the city of Cleveland's website, isn't  
21 it?

22 A. Correct.

23 Q. And nowhere in those 53 or 59 pages is the word  
24 "opioid" even used, is it, Chief?

25 A. To my knowledge, no.

## Chief Williams - Examination

1 Q. And in fact, subsequently, the consent decree became  
2 a public document, did it not?

3 A. Yes.

4 Q. And that's filed, among other places, on the city of  
5 Cleveland's website?

6 A. Yes.

7 Q. And in fact, the only time in the 105-page consent  
8 decree that the word "opioid" appears is one time on page  
9 100 in paragraph 431 where it defines an individual in  
10 crisis and says "that is a person in a mental health  
11 crisis who appears to be significantly under the  
12 influence of opioids or PCP."

13 That's the only time it is in the consent  
14 decree. Isn't that true, Chief.

15 A. If I remember correctly, you may be right.

16 Q. And you've testified before City Council numerous  
17 times about the consent decree, haven't you?

18 A. A few times, yes.

19 Q. And was it -- have you testified before committees  
20 of Council in addition to the Council as a whole?

21 A. That's correct.

22 Q. Has your testimony been recorded?

23 A. On TV 20, yes.

24 Q. And at those hearings, you presented information and  
25 answered questions about the resources that would be

## Chief Williams - Examination

1 required to comply with the consent decree, haven't  
2 you?

3 A. Yes.

4 Q. And you've included the cost of compliance in the  
5 consent decree in proposed budgets of the Division, have  
6 you not?

7 A. In some instances, yes.

8 Q. And those budgets are public records, aren't they,  
9 sir?

10 A. Yes.

11 Q. So there is really no secret, is there, Chief, about  
12 what the city of Cleveland has to do to comply with the  
13 consent decree and how much it will cost and all those  
14 sorts of things?

15 A. For compliance?

16 Q. Yeah.

17 A. No. There isn't, no.

18 Q. And in fact, the person who is in charge of  
19 overseeing compliance with the consent decree is the  
20 monitor. Isn't that right?

21 A. He is appointed by the Court, yes.

22 Q. And the person, the individual assigned with  
23 oversight of the Cleveland Division of Police compliance  
24 internally is Greg White, correct?

25 A. Greg White works for the mayor, yes.

Chief Williams - Examination

1 Q. In overseeing compliance with the consent decree,  
2 right?

3 A. That's his duty, yes.

4 Q. Yes. He is a former U.S. Attorney, isn't he?

5 A. Yes, he is.

6 Q. He is a former Judge in this courthouse, isn't  
7 he?

8 A. Yes.

9 MR. PARKER: No further questions. Thank  
10 you. Oh, I'm sorry, your Honor. I have one more  
11 question.

12 BY MR. PARKER::

13 Q. Is the fact that Ms. Rendon is no longer in the U.S.  
14 Attorney's Office and now represents Defendants in the  
15 opioid case going to change the efforts of the Cleveland  
16 Division of Police in one small bit with the vigor and  
17 the efforts they bring to attack the opioid crisis in  
18 Cleveland?

19 A. I don't think I quite understand your question.

20 Q. You are going to still do your best job everyday  
21 trying to fight the opioid crisis in Cleveland, and you  
22 are going to ask your Division to do the best job they  
23 can to fight the opioid crisis everyday in Cleveland,  
24 regardless of where Ms. Rendon works, aren't you?

25 A. Of course we are.

Chief Williams - Examination

1 MR. PARKER: Thank you.

2 EXAMINATION CONTINUED

3 BY MR. WEINBERGER::

4 Q. Chief Williams, if the consent decree has nothing to  
5 do with the opioid crisis, do you have any idea why it  
6 was you were asked all those questions by Ms. Rendon  
7 about the consent decree in your deposition?

8 A. I think they go to resources, expenditures, and  
9 things like that.

10 Q. Right. So resources how you -- prior to the decree  
11 and since the decree, you were assigning resources to  
12 various aspects of law enforcement, correct?

13 A. That's correct.

14 Q. And I know you are not a lawyer, are you?

15 A. No, I am not.

16 Q. Okay. So if the defense of Endo Pharmaceuticals who  
17 Carole Rendon represents and who -- and if she is the  
18 lawyer that signed an answer, that alleges the city of  
19 Cleveland failed to mitigate their damages, in other  
20 words, failed to assign resources to remedy the opioid  
21 crisis, does that square with why perhaps you were being  
22 asked that question --

23 MR. PARKER: Objection, your Honor.

24 Q. -- about the consent decree?

25 THE COURT: I think that -- that calls for

## Chief Williams - Examination

1 the witness to speculate why someone else asked a  
2 question, Mr. Weinberger, so I will sustain that  
3 objection.

4 BY MR. WEINBERGER::

5 Q. Okay. But from your understanding, the line of  
6 questioning that you were subjected to had to do with  
7 issues of whether or not you were assigning or the city  
8 of Cleveland was assigning sufficient personnel and  
9 resources to the opioid crisis, correct?

10 A. That's correct.

11 MR. WEINBERGER: Thank you, your Honor.

12 THE COURT: All right. Thank you, Chief.  
13 You may step down. You are welcome to stay. But I know  
14 you have got a lot more responsibilities, so you are  
15 certainly free to go, but thank you.

16 THE WITNESS: Thank you, your Honor.

17 THE COURT: All right. Mr. Parker, if you  
18 want to call Ms. Rendon. Ms. Rendon, if you can raise  
19 your right hand?

20 - - - - -

21

22

23

24

25

CAROLE RENDON

Ms. Rendon - Examination

1 called as a witness and being first duly sworn, was  
2 examined and testified as follows:

3 EXAMINATION

4 BY MR. PARKER:

5 Q. Ms. Rendon, let's try to cut to the Chase a little  
6 bit here.

7 While you were employed in the U.S.  
8 Attorney's Office, did you ever work on a matter that had  
9 the same basic facts and the same related parties as the  
10 there track one cases?

11 A. No, I did not.

12 Q. Do you possess any confidential government  
13 information as that term is used — as you understand  
14 that term to be in Rule 1.11 of the Ohio Rules of  
15 Professional Conduct that you could use to the material  
16 detriment of the track one Defendants?

17 A. No, I do not.

18 Q. Whether or not you could use it to the Plaintiffs'  
19 material disadvantage, do you possess any confidential  
20 government information that's relevant to this case?

21 A. I do not.

22 Q. How do you know that with such confidence?

23 A. Because I am the one and only person sitting in this  
24 room who knows what I know, and I know the rules, and I  
25 know what they require. I know what confidential

## Ms. Rendon - Examination

1 government information is, and I don't possess any of it  
2 relevant to this case.

3 Q. Do you take your ethical obligations as a lawyer  
4 seriously?

5 A. I absolutely do.

6 Q. Can you explain that?

7 A. So in my life and in my career with my clients, I  
8 have worked with and worked side by side with people who  
9 are rule followers and people who are rule benders and  
10 people who are rule breakers, and I am to a fault a rule  
11 follower.

12 Q. You submitted a declaration that the Court has in  
13 this case?

14 A. I did.

15 Q. Who drafted that declaration?

16 A. I drafted it.

17 Q. Is it true and complete?

18 A. It is.

19 Q. I want to just get a little bit of your history in  
20 the U.S. Attorney's Office so that we can put it in  
21 context with when the cases that we are here about were  
22 filed.

23 When did you first start in the Department  
24 of Justice?

25 A. My first job in the Department of Justice was

## Ms. Rendon - Examination

1 actually in Boston, Massachusetts. When I graduated from  
2 law school, I clerked on the Seventh Circuit Court of  
3 Appeals, and then I went into the Attorney General's  
4 Honors Program in the Criminal Division of the Department  
5 of Justice, and I was assigned to the Organized Crime  
6 Strike Force in Boston, Massachusetts. And subsequently,  
7 the strike forces across the country were merged into  
8 their local U.S. Attorney's Office, and my job stayed the  
9 same, but my title went from Trial Attorney to Assistant  
10 U.S. Attorney.

11 Q. And how long were you in the U.S. Attorney's Office  
12 in Boston?

13 A. So all told just under a decade.

14 The second part of my time in the U.S.  
15 Attorney's Office, I was the chief of the Organized Crime  
16 Drug Enforcement Task Force.

17 Q. And what did you do after you left the U.S.  
18 Attorney's Office in Boston?

19 A. I went into private practice, first briefly in  
20 Boston, and then my husband Michael and I moved back home  
21 to Cleveland.

22 Q. And did you go back into the U.S. Attorney's Office  
23 here in the Northern District of Ohio?

24 A. Yes. After spending about a dozen years in private  
25 practice, I, in November of 2009, I returned to the

Ms. Rendon - Examination

1 Department of Justice.

2 Q. In what position?

3 A. Initially, as the Executive Assistant U.S. Attorney  
4 and then as the First Assistant U.S. Attorney.

5 Q. And how long did you serve in those roles?

6 A. About six and-a-half years, November of 2009 until  
7 February 6th of 2016.

8 Q. And what happened on February 6th of 2016?

9 A. I became the United States Attorney.

10 Q. How long did you serve in that role?

11 A. Until March 10th of 2017.

12 Q. And why did you leave the U.S. Attorneys Office?

13 A. Because I and all of my remaining colleagues who  
14 were United States Attorneys across the country were  
15 forced to resign on March 10th of 2017.

16 Q. Now, while you were the assistant and the executive  
17 assistant here in this office, did you personally  
18 prosecute cases on a day-to-day basis?

19 A. No.

20 Q. How many criminal investigations did you directly  
21 oversee?

22 A. Myself personally, just one.

23 Q. And how many criminal prosecutions did you handle  
24 while you were the Executive and the First Assistant?

25 A. I only handled two.

Ms. Rendon - Examination

1 Q. Were either of them opioid cases?

2 A. No.

3 Q. What was the case you handled?

4 A. So one was a single Defendant felon in possession of  
5 a firearm case that I was going to try with a brand new  
6 AUSA, but it ended up pleading, and the other was a  
7 lengthy investigation and prosecution of campaign  
8 finance, witness tampering, and obstruction of justice  
9 charges.

10 Q. Did you handle any civil litigation as the First  
11 Assistant U.S. Attorney?

12 A. I did.

13 Q. What was that?

14 A. So I handled two matters involving the Voting Rights  
15 Act, one adverse to the Cuyahoga County Board of  
16 Elections, and the other the Lorain County Board of  
17 Elections, trying to bring those two counties into  
18 compliance with the Voting Rights Act, which is why we  
19 now have bilingual ballots in each of those counties, and  
20 I worked on the consent decree with the Cleveland  
21 Division of Police.

22 Q. So at least in one matter, you were adverse to  
23 Cuyahoga County Board of Elections while you were in the  
24 U.S. Attorney's Office?

25 A. Yes.

Ms. Rendon - Examination

1 Q. During your tenure as Executive First Assistant, did  
2 the U.S. Attorney's Office, to your knowledge, ever bring  
3 an action against any of the Defendants in the track one  
4 cases?

5 A. No, we did not.

6 Q. During your tenure as the Executive and First  
7 Assistant, to your knowledge, was it ever discussed in  
8 the U.S. Attorney's Office about bringing an  
9 investigation or a case against the track one Defendants?

10 A. No, it never was.

11 Q. Now, when you became the U.S. Attorney, did you  
12 conduct any trials?

13 A. I did not.

14 Q. Did you prosecute any criminal cases on a day-to-day  
15 basis?

16 A. No.

17 Q. Did you handle any drug cases?

18 A. No.

19 Q. Did you handle any civil cases?

20 A. Personally, no. As the U.S. Attorney, no, I was not  
21 able to be directly involved in any criminal or civil  
22 cases.

23 Q. Now, during your tenure as the U.S. Attorney, did  
24 you or your office ever bring an action against any of  
25 the track one Defendants?

Ms. Rendon - Examination

1 A. We did not.

2 Q. Did you ever investigate, to your knowledge, any of  
3 the Defendants in the track one cases?

4 A. No, we did not.

5 Q. To your knowledge, was that ever even discussed?

6 A. No, it was not.

7 Q. And who was your client when you worked in the  
8 U.S. Attorney's Office?

9 A. United States of America.

10 Q. In your entire legal career, have you ever  
11 represented the city of Cleveland, Cuyahoga County, city  
12 of Akron, or Summit County?

13 A. No.

14 Q. And so I don't forget, did the city of Akron or  
15 Summit County ever participate in the U.S. Attorney's  
16 Heroin and Opioid Task Force?

17 A. They did not.

18 Q. Did you ever have any contact with them in  
19 connection with that?

20 A. Not in connection with the task force, no.

21 Q. And I assume you've never been employed by the city  
22 of Cleveland, Cuyahoga County, the city of Akron or  
23 Summit County, have you?

24 A. I have not.

25 Q. And were the track one lawsuits filed when you

Ms. Rendon - Examination

1 worked for the U.S. Attorney's Office?

2 A. They were not, no.

3 Q. Did you know the track one Plaintiffs planned to  
4 file these lawsuits before they were filed?

5 A. No.

6 Q. Did anyone ever discuss the filing of the suits by  
7 the track one Plaintiffs before they were filed?

8 A. They did not.

9 Q. Now, when did you begin representing Endo  
10 Pharmaceuticals?

11 A. In June of 2017.

12 Q. Was that before or after the — well, where was that  
13 case at by the way?

14 A. So that case was filed by the Attorney General of  
15 the state of Ohio. At the time, it was Mike DeWine, and  
16 that case is pending in the Southern District of Ohio in  
17 Ross County.

18 Q. And have the track one cases yet been filed?

19 A. No.

20 Q. Do you recall when Cuyahoga County filed its case?

21 A. The first track one case that was filed was filed by  
22 Cuyahoga County in October of 2017, and I apologize, I  
23 don't remember the exact date.

24 Q. Does the 27th sound right?

25 A. Sounds right.

Ms. Rendon - Examination

1 Q. And you had already been representing Endo by that  
2 point?

3 A. Correct, I was already representing Endo at that  
4 point.

5 Q. And do you recall when Akron and Summit filed their  
6 cases?

7 A. Akron and Summit filed in December of 2017.

8 Q. All right. Now, as the U.S. Attorney, it has been  
9 mentioned that you were a member of the U.S. Attorneys  
10 Heroin and Opioid Task Force? Were you also involved in  
11 various other community organizations and task forces?

12 A. Yes, a lot of them.

13 Q. Can you just tick them off for the Court?

14 A. I will try. I will tick off, at least, the ones  
15 that I recall.

16 So I was very involved in the collaborative  
17 and human trafficking work that was done with private  
18 citizens and law enforcement to address that issue. That  
19 evolved with Cuyahoga County and others in establishing  
20 the Northeast Ohio Business Ethics Coalition, which also  
21 involved private citizens and business entities.

22 I helped to start up the Northeast Ohio  
23 Cyber Security Consortium. I also worked in a task  
24 force-like setting to address issues involving  
25 child pornography.

## Ms. Rendon - Examination

1 Q. There was some testimony earlier about an  
2 organization called STANCE?

3 A. Yes. I was involved with STANCE.

4 Q. Can you explain what STANCE is?

5 A. STANCE stands for Standing Together Against  
6 Neighborhood Crime Everyday, and the purpose of  
7 STANCE, which existed long before I joined the U.S.  
8 Attorney's Office here in the Northern District,  
9 was to address the problem of youth violence in the  
10 city of Cleveland.

11 Q. And was that what was typically discussed at the  
12 meetings that you attended for STANCE?

13 A. That was, yes.

14 Q. Now, I want to ask you some questions about the  
15 U.S. Attorneys Heroin and Opioid Task Force, and if I  
16 refer to it as the Task Force, you will understand what I  
17 mean?

18 A. Yes, I will.

19 Q. Okay. Can you tell us what it was?

20 A. The U.S. Attorneys Heroin and Opioid Task Force was  
21 an organization that was formed in the fall of 2013,  
22 early winter actually, following a summit that we held at  
23 the Cleveland Clinic, and it is an organization. It is a  
24 community organization that has, amongst its members, law  
25 enforcement, federal, state, and local, elected judges,

## Ms. Rendon - Examination

1 elected representatives outside of the judiciary, private  
2 citizens, doctors, educators, treatment professionals,  
3 pain management doctors, WKYC Channel 3, and others.

4 Q. And did representatives of all of those  
5 organizations attend these meetings?

6 A. Yes, they did.

7 Q. At any meeting you were ever at, do you recall  
8 anybody ever saying the information being discussed at  
9 this meeting is confidential?

10 A. Absolutely not.

11 Q. In fact, was the purpose of the meetings to keep  
12 information confidential or to disseminate it?

13 A. The purpose of the meeting was two fold: One, to  
14 share information amongst ourselves about what each was  
15 seeing from their own perspective, try to help one  
16 another come up with other ideas and ways we could  
17 address the opioid abuse crisis in our community and  
18 then, yes, to get that information out to the public,  
19 because, otherwise, we weren't going to do any good just  
20 sitting talking amongst ourselves in a room.

21 The purpose was to put that into action, and  
22 the action plan itself was right on the U.S. Attorneys  
23 website.

24 Q. So at some point, you became the chair of the Opioid  
25 Task Force?

Ms. Rendon - Examination

1 A. I did the day I became the U.S. Attorney.

2 Q. So prior to you becoming the U.S. Attorney, who was  
3 the chair?

4 A. Steve Dettelbach, my predecessor, was the U.S.  
5 Attorney.

6 Q. And after you have left the office who became the  
7 chair?

8 A. Justin Herdman who is the current United States  
9 Attorney.

10 Q. And how often did the Task Force have meetings?

11 A. We met approximately every other month.

12 Q. So six times a year?

13 A. Correct.

14 Q. And how many members just generally did the Task  
15 Force have?

16 A. Well, some of the documents I've looked at have  
17 upwards of a hundred people on the e-mail inviting them  
18 to the Task Force meetings. On average at a meeting, we  
19 would have somewhere between 40 and 50 people in  
20 attendance.

21 Q. And I think you testified that the task force was a  
22 community-based organization. It is not a governmental  
23 or quasi governmental organization, is it?

24 A. No.

25 Q. Was there ever discussion at any of the Task Force

Ms. Rendon - Examination

1 meetings about the track one Defendants?

2 A. Never.

3 Q. Did the Task Force have subcommittees?

4 A. It did.

5 Q. What were the subcommittees?

6 A. It had four subcommittees, law enforcement,  
7 education and prevention, healthcare policy, and  
8 treatment.

9 Q. And were you a member of any of the subcommittees?

10 A. I was not.

11 Q. Did you ever attend a subcommittee meeting?

12 A. I did not.

13 Q. And what just generally were the goals of this Task  
14 Force?

15 A. So the goals of the Task Force, which are stated  
16 right on the document that outlines the work of a task  
17 force on the U.S. Attorney's website, was to address the  
18 burgeoning problem of heroin and opioids in our community  
19 and to try to work on that with a multifaceted approach  
20 involving what we called an all-of-the-above type of an  
21 effort.

22 Q. Now, did non Task Force members sometimes attend  
23 meetings?

24 A. Often.

25 Q. Who were those folks?

## Ms. Rendon - Examination

1 A. So we had representatives of elected officials who  
2 attended the meetings. I recall a representative from  
3 David Joyce's office attending, a representative from  
4 representative Sprague's office attending. We had  
5 members of the media that attended on occasion.

6 I actually know Bill Shields and have a  
7 distinct memory of him being at a Task Force meeting. We  
8 had other people who came in and presented about various  
9 treatment facilities. I recall very specifically the  
10 Berea Police Department presenting about a new program  
11 that they had developed for the city of Berea, so a  
12 whole wide range of different folks would come in, a lot  
13 of whom were involved in either education or in  
14 treatment.

15 Q. And did the U.S. Attorney's Office make any effort  
16 to share Task Force information with the public?

17 A. Yes, we did.

18 Q. What was that?

19 A. So we did it in a number of different ways. First  
20 of all, the Task Force members, myself included, and  
21 others attended hundreds of community forums where we  
22 discussed what was happening in the community and what we  
23 were doing to try to address it.

24 We issued press releases. We held  
25 press conferences, so we were — and we updated

## Ms. Rendon - Examination

1 information that was available on our website on a  
2 regular basis.

3 Q. What type of information did the Task Force share  
4 with the public, the Task Force, not the U.S. Attorney's  
5 Office but the Task Force?

6 A. Well, the Task Force primarily through the U.S.  
7 Attorney's website shared with the public our community  
8 action plan and the work that we were doing to try to  
9 implement that action plan.

10 Q. And that was the community action plan developed by  
11 the Task Force?

12 A. Correct.

13 Q. Was information about HIDI — we heard that, Heroin  
14 Involved Death Investigation team — shared on the  
15 website?

16 A. Yes. All of the protocols associated with the HIDI  
17 team and how it operates and what it was trying to  
18 accomplish and how they responded to overdose scenes is  
19 all right on the U.S. Attorney's website.

20 Q. Was there any effort to keep that information  
21 confidential?

22 A. No. The purpose was to share that information so  
23 that other law enforcement agencies could read it, see  
24 it, and perhaps adopt it as a model in their own  
25 communities.

## Ms. Rendon - Examination

1 Q. Were the statistics from the Medical Examiner's  
2 Office shared during these Task Force meetings?

3 A. Yes, every meeting.

4 Q. And were they subsequently published and made  
5 available to the public?

6 A. Yes. They are right on the Medical Examiner's  
7 website.

8 Q. Did anyone ever — was anyone ever compelled by the  
9 U.S. Attorney's Office to provide information to the Task  
10 Force through a CID, a subpoena, an investigation,  
11 anything of that nature?

12 A. Absolutely not.

13 Q. Now, you know Commander Gary Gingell. Is that  
14 correct?

15 A. I do.

16 Q. You heard him testify today?

17 A. I did.

18 Q. Can you characterize your interactions with him at  
19 the time you were in the U.S. Attorney's Office?

20 A. So virtually all of my interactions with Commander  
21 Gingell were either at the Heroin and Opioid Task Force  
22 or working the case of the STANCE Task Force, which is a  
23 separate task force that also is actually chaired by or  
24 run by a private citizen or at community forums.

25 I recall Commander Gingell and some of the

## Ms. Rendon - Examination

1 doctors from the Cleveland Clinic and a Cuyahoga County  
2 prosecutor appearing on a panel that I moderated at the  
3 Ohio Attorney General's Law Enforcement Conference, but  
4 those were my contacts with Commander Gingell.

5 Q. Did you ever have a private one-on-one meeting with  
6 Commander Gingell?

7 A. No.

8 Q. Did you ever speak with him on the phone?

9 A. No.

10 Q. Did he ever present information at a Task Force  
11 meeting?

12 A. He did.

13 Q. And were these where all of the people you've  
14 described, the hundred people or however many were  
15 present?

16 A. Well, there weren't a hundred in the room.

17 Q. Okay.

18 A. Because the room wouldn't hold a hundred.

19 Q. How many were in the room?

20 A. You know, on an average, we would have anywhere  
21 between 40 and 50 people attend the Task Force  
22 meetings.

23 Q. And those included private citizens?

24 A. It did, yes.

25 Q. Whenever you were at one of these meetings and

Ms. Rendon - Examination

1 Commander Gingell presented did he ever say "hey, keep  
2 this information confidential"?

3 A. Not at any meeting that I ever attended, no.

4 Q. What was your understanding about whether the  
5 information he was disseminating at these meetings was  
6 intended to be confidential?

7 A. It was my understanding that it was not intended to  
8 be confidential.

9 Q. Why do you have that understanding?

10 A. Because the whole purpose of the Task Force was for  
11 people from different perspectives to get together, share  
12 with one another what they were doing and bring that back  
13 to their communities and hopefully augment the work that  
14 they were doing to try to address the heroin abuse  
15 crisis.

16 So for example, if there were people,  
17 representatives from David Joyce's office present at a  
18 Task Force meeting and Commander Gingell was presenting,  
19 you would hope that they would take that information back  
20 to the Congressman himself and perhaps others and would  
21 try to adopt some of the work that Commander Gingell had  
22 presented at the Task Force meeting.

23 Q. You are familiar with Rule 1.11 of the Ohio Rules of  
24 Professional Conduct?

25 A. Yes, I am.

Ms. Rendon - Examination

1 Q. And using the definition of "confidential government  
2 information" that appears in that rule, do you have any  
3 confidential government information provided to you by  
4 Commander Gingell?

5 A. I do not.

6 Q. Do you have any confidential government information  
7 provided to you by the city of Cleveland as it relates to  
8 the opioid abuse crisis?

9 A. I do not.

10 Q. Let's talk a little bit about Dr. Gilson. You heard  
11 him testify today, did you not?

12 A. I did.

13 Q. And how do you know him?

14 A. I know him also from my time in the U.S. Attorney's  
15 Office and primarily, if not exclusively, in connection  
16 with the U.S. Attorney's Heroin and Opioid Task Force.

17 Q. And he testified about meeting with you. Do you  
18 remember that testimony.

19 A. I do.

20 Q. How many times did you meet with him at the Medical  
21 Examiner's Office?

22 A. One time.

23 Q. Do you recall who else attended that meeting?

24 A. So Dr. Gilson was there, Hugh Shannon, the  
25 administrator of his office, was there. I attended, Joe

Ms. Rendon - Examination

1 Pinjuh, who is the Chief of the OCDETF unit in the U.S.  
 2 Attorney's Office, Craig Tame, our law enforcement  
 3 coordinator, and I am almost positive but closer to 95  
 4 percent than a hundred percent I am sure that Mike Tobin  
 5 was there as well. He is the community outreach  
 6 specialist.

7 Q. And what was the purpose of the meeting?

8 A. The purpose of the meeting was to explain to  
 9 Dr. Gilson and Hugh Shannon the opinion that the  
 10 United States Supreme Court had issued in Burrage versus  
 11 United States.

12 Q. And was the purpose of the meeting for you to  
 13 provide information about that to Dr. Gilson or  
 14 Dr. Gilson to provide information to you?

15 A. The purpose of the meeting was for us to provide  
 16 information to Dr. Gilson and Hugh Shannon about the  
 17 Burrage opinion and what it required.

18 Q. What were you trying to accomplish?

19 A. So one of the things that we were trying to do was  
 20 bring what are called death specification cases when we  
 21 could against drug dealers, and the Burrage opinion  
 22 establishes what the government has to be able to prove  
 23 in order to seek that sentence enhancement.

24 Q. And in fact, did the three of you publish an  
 25 article?

## Ms. Rendon - Examination

1 A. We did.

2 Q. And what was that article about?

3 A. So that article was about exactly what we talked  
4 about in that meeting. It was about the Burrage opinion,  
5 what it requires, and then what medical examiners need to  
6 be able to testify to in order to meet the but-for  
7 causation requirement in that opinion.

8 Q. As somebody who has never been published, I don't  
9 mean to belittle the article, but how long was it?

10 A. So it is actually two pages. There is like a front  
11 cover page and a back page that has some citations.

12 Q. Now, other than the Burrage but-for causation issue  
13 we just discussed and the article that came out of that,  
14 did you ever discuss strategies for prosecuting cases  
15 with Dr. Gilson?

16 A. I did not.

17 Q. Was the Medical Examiner's Office on the Task  
18 Force?

19 A. They were.

20 Q. Did he attend meetings, Dr. Gilson?

21 A. He did.

22 Q. Were there others from the Medical Examiner's Office  
23 who attended the meetings?

24 A. Yes, Hugh Shannon.

25 Q. And did the medical examiner regularly present

## Ms. Rendon - Examination

1 information at the Task Force?

2 A. They did.

3 Q. Did they ever indicate that the information they  
4 were presenting was confidential?

5 A. No, they did not.

6 Q. What type of information did they present at those  
7 meetings, Ms. Rendon?

8 A. So they would present also information about what  
9 they were seeing in the Medical Examiner's Office,  
10 trends, developments, how many people had died in the  
11 last couple of months since the beginning of the year,  
12 demographics, how old, how many men, how many women, how  
13 many had died in the city of Cleveland, how many in the  
14 suburbs, what they were dying from, fentanyl,  
15 carfentanil, heroin, cocaine.

16 All of the information that they had  
17 gathered would be presented usually at the beginning of  
18 our Task Force meetings, and so anything new that they  
19 were seeing, they would make sure that they alerted  
20 everybody on the Task Force to that new trend that they  
21 might be seeing.

22 Q. Was that information also available on their  
23 website?

24 A. It is.

25 Q. Now, I take it the U.S. Attorney's Office never

## Ms. Rendon - Examination

1 issued a summons, a CID, any kind of subpoena to get any  
2 of this information from Dr. Gilson, did they?

3 A. We did not.

4 Q. Again, using the definition of confidential  
5 government information in Rule 1.11, do you have any  
6 confidential government information provided to you by  
7 Dr. Gilson?

8 A. I do not.

9 Q. Do you have any confidential government information  
10 provided to you by Cuyahoga County related to the opioid  
11 abuse crisis?

12 A. I do not.

13 Q. You were involved in the issuance of the consent  
14 decree between the Department of Justice and the city of  
15 Cleveland. Is that correct?

16 A. Yes, I was.

17 Q. Can you tell us what that investigation was about?

18 A. So the investigation was to determine whether or not  
19 the Cleveland Division of Police engaged in a pattern or  
20 practice of the excessive use of force, both lethal and  
21 non lethal, in violation of the Constitution of the  
22 United States.

23 Q. I believe Chief Williams answered every one of my  
24 questions forthrightly about this, so I won't go over  
25 them with you, but does the consent decree have anything

Ms. Rendon - Examination

1 to do with the opioid crisis?

2 A. It has nothing to do with the opioid crisis.

3 Q. Now, you began working at Baker and Hostetler  
4 when?

5 A. May 1st of 2017.

6 Q. And you began representing the Endo Defendants  
7 when?

8 A. In June of 2017.

9 Q. And you were appointed co-liaison counsel for the  
10 manufacturers when?

11 A. December of 2017.

12 Q. And at any time after the Plaintiffs filed a track  
13 one case, did they object to your appointment as liaison  
14 counsel?

15 A. No.

16 Q. And mindful of the remarks that the Judge made at  
17 the beginning of all of this, when was the first time the  
18 Plaintiffs actually raised an issue about your  
19 participation in this litigation?

20 A. The first time anybody raised an issue about my  
21 participation was a letter I received from Hunter  
22 Shkolnik in August of 2018.

23 Q. And was the basis of that — did that letter mention  
24 Rule 1.11?

25 A. It did not.

Ms. Rendon - Examination

1 Q. When was the first time the Plaintiffs raised the  
2 issue of Rule 1.11?

3 A. In December of 2018, in a letter that they submitted  
4 to the Department of Justice seeking my deposition  
5 pursuant to the Touhy regulations.

6 Q. Ms. Rendon, you are familiar with the Ohio Rules of  
7 Professional Conduct that govern all of us who are barred  
8 here in the state of Ohio, are you not?

9 A. I am very familiar with them, yes.

10 Q. Have you violated any of the Rules of Professional  
11 Conduct?

12 A. I absolutely have not.

13 MR. PARKER: Thank you.

14 THE COURT: All right. Mr. Weinberger?

15 EXAMINATION CONTINUED

16 BY MR. WEINBERGER:

17 Q. Ms. Rendon, your tenure with the U.S. Attorney's  
18 Office ended on what day?

19 A. March 10th of 2017.

20 Q. And you had been in the U.S. Attorney's Office for  
21 how long as of that time?

22 A. Since November of 2009.

23 Q. And you were the acting U.S. Attorney for how  
24 long?

25 A. I was the acting U.S. Attorney from February 6th of

## Ms. Rendon - Examination

1 2016 until I was confirmed by the Senate in July of 2016.

2 Q. So — and you were an employee of the federal  
3 government during that time frame, correct?

4 A. Correct. I was an employee of the Department of  
5 Justice.

6 Q. And as the U.S. Attorney and Assistant U.S. Attorney  
7 for the Northern District of Ohio, do you understand that  
8 you also represent the interests of the citizens of  
9 Cuyahoga County, Cleveland, and other communities within  
10 the Northern District of Ohio?

11 A. My client when I worked for the United States  
12 government was the United States of America. We were  
13 often adverse to the city of Cleveland and other  
14 governmental agencies.

15 So I represented all of the citizens, all of  
16 the taxpayers who live in the 40 counties that are within  
17 the Northern District of Ohio, but I did not represent  
18 any of the governmental agencies.

19 Q. So in your whatever, however you want to couch your  
20 relationship with the citizens of the Northern District  
21 of Ohio and the counties and cities within that district,  
22 would you agree that those citizens placed their trust in  
23 you during the time frame that you were acting U.S.  
24 Attorney and Assistant U.S. Attorney?

25 MR. PARKER: Objection, your Honor. I am

## Ms. Rendon - Examination

1 not sure she can testify to what the citizens of the  
2 Northern District of Ohio think about her.

3 THE COURT: Well, Mr. Weinberger, I would  
4 suggest you rephrase that. Technically, Mr. Parker is  
5 correct for the same reason I sustained an objection  
6 before.

7 You can ask Ms. Rendon how she feels, but  
8 you can't ask her to guess on how — what someone else  
9 feels.

10 MR. WEINBERGER: Right.

11 BY MR. WEINBERGER:

12 Q. Do you feel that the citizens of our community have  
13 the right to place their trust in you while you were in  
14 this position?

15 A. I think the citizens of the United States of  
16 America have the right to place their trust in the  
17 governmental officials that they elect to represent them  
18 and in the government of the United States of America,  
19 absolutely.

20 Q. And so that would apply to the citizens of the  
21 communities in the Northern District of Ohio?

22 A. Yes. I would expect that the citizens would expect  
23 their government to do its level best to deal with the  
24 issues under their jurisdiction.

25 Q. Right. And one of the issues that confronted our

Ms. Rendon - Examination

1 communities during your tenure was the horrific opioid  
2 crisis that occurred, correct?

3 A. Yes. We have an opioid abuse crisis that developed  
4 during my tenure — well, preceded my tenure in the U.S.  
5 Attorney's Office — but there was an opioid abuse crisis  
6 that we were addressing when I was in the U.S. Attorney's  
7 Office.

8 Q. Right. And so how is it that you became then  
9 chairman of the Task Force, the U.S. Attorney Task Force  
10 to deal with the opioid crisis?

11 A. So the chair of the Task Force is the person who  
12 holds the position as the U.S. Attorney.

13 Q. Right. I just want to know how you became the  
14 chair.

15 A. By virtue of becoming United States Attorney.

16 Q. All right. And before you became U.S. Attorney, the  
17 previous chair was the previous U.S. Attorney,  
18 Mr. Dettelbach, correct?

19 A. Yes.

20 Q. All right. So when you assumed the role as chair of  
21 the Opioid — U.S. Attorney opioid crisis you took that  
22 role very seriously, didn't you?

23 A. The role as chair of the Opioid Task Force? Is that  
24 what you are asking?

25 Q. Yes, yes.

Ms. Rendon - Examination

1 A. Yes. I took all of my roles very seriously as  
2 U.S. Attorney.

3 Q. And the way that the Task Force dealt with that  
4 opioid crisis was a serious matter, correct?

5 A. The way that the U.S. Attorney's Office dealt with  
6 everything that we were responsible for —

7 Q. — I asked you —

8 A. — was a serious matter. Yes, Mr. Weinberger, and  
9 that includes the opioid abuse crisis.

10 Q. Thank you. You've answered my question.

11 Now, you resigned from the U.S. Attorney's  
12 Office in April 2017?

13 A. No. I resigned on March 10th of 2017 as required by  
14 the current Administration.

15 Q. And then, you became employed by Baker and  
16 Hostetler, correct?

17 A. I did.

18 Q. And that employment began on May 1, 2017?

19 A. It did.

20 Q. And then, you got hired by Endo Pharmaceuticals in  
21 June of 2017?

22 A. I did.

23 Q. Now, you testified before the Senate committee —  
24 let me see if I can come up with a name here, the  
25 United States Senate Committee on Homeland Security and

## Ms. Rendon - Examination

1 Governmental Affairs — you testified before that  
2 committee on April 22, 2016, did you not?

3 A. I don't have the date memorized, but that sounds  
4 right.

5 Q. Well, did you read the transcript of your  
6 testimony before the committee that was an exhibit to our  
7 motion?

8 A. I did.

9 Q. And is everything — you testified under oath when  
10 you gave that testimony, didn't you?

11 A. Um, I do not believe it was under oath.

12 Q. All right. Was everything that was in the  
13 transcript attributed to you in your testimony before  
14 that United States Senate Committee truthful?

15 A. To the best of my ability, absolutely.

16 Q. And in giving that testimony, that was a committee  
17 of the Senate that was formed to, in part, deal with the  
18 opioid crisis, correct?

19 A. It was a field hearing of a committee of the Senate,  
20 yes.

21 Q. Right. And the Task Force of the U.S. Attorney on  
22 the opioid crisis here in Northeastern Ohio was presented  
23 as one of the model task forces from around the country  
24 to deal with this epidemic, correct?

25 A. Presented as a model to whom, Mr. Weinberger?

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1 Q. A model to our country.

2 A. No, I mean, in what — in what location are you  
3 asking if it was presented as a model?

4 Q. At the U.S. Senate Committee hearing that you  
5 testified in?

6 A. So, yeah. I testified about our Task Force, and I  
7 testified about the fact that it had become a model  
8 within the Department of Justice, and that U.S.  
9 Attorney's Offices in other parts of the country were  
10 trying to establish the same type of community based  
11 organizations to address the opioid abuse crisis in a  
12 multifaceted fashion.

13 Q. Was one of the issues that was identified by the  
14 Task Force the fact that doctors were — legitimate  
15 doctors were overprescribing opioids?

16 A. One of the issues that we addressed during Task  
17 Force meetings was the concern about the overprescription  
18 of opioids in our community, yes.

19 Q. And did you come to learn that the reason for the  
20 overprescription or the alleged reason was the way in  
21 which the opioid medications were being marketed by the  
22 manufacturers and the distributors of those drugs?

23 A. No. That was never discussed in any of our Task  
24 Force meetings.

25 Q. So did you develop a healthcare policy as part of

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1 the Task Force?

2 A. Yeah. It was a healthcare policy subcommittee that  
3 worked on healthcare policy, and a lot of the work that  
4 they were committed to doing is on the U.S. Attorney's  
5 website in the Community Action Plan of the Task Force.

6 Q. And was one of the purposes of the Task Force to try  
7 to change the way in which doctors were prescribing  
8 opioids?

9 A. Yes. There were members of the Task Force who were  
10 working on issues associated with prescribing protocols  
11 and trying to work on implementation on the new CDC  
12 guidelines for prescribing protocols and making sure that  
13 doctors in the community knew what the appropriate  
14 protocols were.

15 Q. Right. And one of the things that needed to be  
16 addressed as identified by the Task Force was to address  
17 the underlying incentives that caused the  
18 overprescription in the first place, correct?

19 A. Yes, and the thing that we were focused on was the  
20 HCAHPS scores, which I sound like I know what I am  
21 talking about, but it is because other people explained  
22 it to me.

23 In the hospitals, there is what is called a  
24 patient satisfaction survey that is given to patients,  
25 and one of the ways that hospitals are reimbursed for

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1 their medical care is based on those patient satisfaction  
2 surveys. And one of the questions on the survey is how  
3 well was your pain managed.

4 Q. And while you were a member of the Task Force or  
5 leading the Task Force, did you come to learn how that  
6 patient satisfaction survey in terms of level of pain  
7 came to fruition?

8 A. I did not.

9 Q. You know how it did now, don't you?

10 A. I have some sense, but I haven't — I have to say I  
11 haven't studied that, so I wouldn't want to try to repeat  
12 back.

13 Q. Okay. So you told us after being retained by Endo  
14 Pharmaceuticals in defense of their case you then were  
15 retained by the manufacturers as liaison counsel,  
16 correct?

17 A. Yes. So I was first retained by Endo  
18 Pharmaceuticals to represent them in connection with the  
19 first case that was filed in Ross County, Ohio.

20 Q. Right, and ultimately became involved in their  
21 defense here in the MDL, correct?

22 A. Correct.

23 Q. After which you then became liaison counsel for all  
24 the manufacturers, correct?

25 A. Yes. The manufacturers nominated myself and

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1 Mark Cheffo to be their two liaison counsel.

2 Q. And is it fair to say that the allegations of the  
3 complaints filed by my colleagues on this side of the  
4 courtroom deal with the question of whether or not the  
5 manufacturers illegally or improperly marketed the drugs  
6 to doctors?

7 A. Those were some of the allegations that are  
8 contained in the complaints that were filed in the MDL,  
9 correct.

10 Q. And similarly, there are allegations against the  
11 manufacturers and distributors concerning whether or not  
12 they violated the Controlled Substances Act in the way in  
13 which they failed to identify suspicious orders and ship  
14 them nonetheless. Are you aware of that?

15 A. There are allegations with respect to the  
16 suspicious orders that were filed and not filed in the  
17 complaints.

18 Q. Are you aware of the fact that the allegations of  
19 these complaints detail the fact that this misconduct,  
20 including the misconduct of Endo Pharmaceuticals who you  
21 represent, led directly to the opioid epidemic in our  
22 communities. You are aware of that, right.

23 A. I am aware that that is part of the contention that  
24 the Plaintiffs have made in the complaints that have been  
25 filed in this litigation, yes.

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1 Q. Right. And you were one of the lawyers that signed  
2 the answer that Endo recently filed in January of 2019 to  
3 the amended complaints in the MDL?

4 A. Yes.

5 Q. Did you help formulate that answer?

6 A. I did not help formulate the answer, no. I reviewed  
7 the answer before it was filed, but I did not help  
8 formulate the answer.

9 Q. At the time that you signed the answer, you realized  
10 that under Rule 1.11 your responsibility was to ensure  
11 that the answer was accurate as far as you knew?

12 A. Of course.

13 Q. Including the affirmative defenses that your client  
14 was alleging in the case, right?

15 A. Of course.

16 Q. So you became aware of the fact that the — some of  
17 the affirmative defenses include whether or not the  
18 complaints were filed within the statute of limitations,  
19 right?

20 A. Yes.

21 Q. And isn't your knowledge about from the Task Force  
22 from things that you learned while you were U.S. Attorney  
23 regarding when County and City officials became aware of  
24 the opioid epidemic relevant to that answer?

25 A. I don't know that it actually is relevant to that

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1 answer because I can't say beyond what people shared in  
2 our community forum about what they learned, when they  
3 actually learned it.

4 I know that Dr. Gilson testified before  
5 the United States Congress that he alerted the  
6 County Executive in the fall of 2011 to what he viewed  
7 as a burgeoning heroin and opioid epidemic in our  
8 community.

9 Q. So is that one of the reasons why at his deposition  
10 you and other defense counsel participated in questioning  
11 Dr. Gilson about when he became aware of the epidemic?

12 MR. PARKER: Objection. There is no  
13 foundation. Dr. Gilson testified he was not at —  
14 Ms. Rendon wasn't at those depositions.

15 THE COURT: Well, I guess you should  
16 rephrase it. There were attorneys from Baker at the  
17 deposition.

18 So if Ms. Rendon knows, she can answer based  
19 open her knowledge. So I guess rephrase it,  
20 Mr. Weinberger.

21 BY MR. WEINBERGER:

22 Q. So were you aware of the fact there was questioning  
23 by either you or other Baker Hostetler lawyers or your  
24 co-counsel in this case of Dr. Gilson concerning learning  
25 when he or other county officials knew about the

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1 epidemic?

2 A. I have not read the entirety of Dr. Gilson's  
3 deposition transcripts in this case. I have read parts  
4 of them, but I know that other witnesses whose  
5 depositions I attended, both involving Summit and Akron,  
6 were asked questions about when they first knew. That  
7 would be a really obvious set of questions that you would  
8 ask if you were defending this litigation,  
9 Mr. Weinberger.

10 Q. And have you asked any questions of the bellwether  
11 witnesses along those lines?

12 A. Not that I recall, actually.

13 Q. Okay. Now, in the answer that you signed on behalf  
14 of Endo Pharmaceuticals, did you allege a failure on  
15 the part of the bellwether Plaintiffs to mitigate  
16 damages?

17 A. That is one of the affirmative defenses, yes.

18 Q. And mitigation in this context means the failure to  
19 take earlier action to avoid the damages that were  
20 sustained, right?

21 A. Not necessarily. The defense can include a number  
22 of ways in which the Plaintiffs in the track one cases  
23 may have failed to completely and effectively mitigate  
24 their damages.

25 Q. Right.

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1 A. But not limited to when they started. It could  
2 include a whole host of things, and that is one of the  
3 affirmative defenses we have asserted and one of  
4 the defenses we are engaged in discovery trying to  
5 develop.

6 Q. Right. One of the issues that might arise is, was  
7 there a failure to adequately prosecute criminals,  
8 potential criminals who were involved in supplying  
9 illicit drugs, right?

10 A. I have a hard time foreseeing how that would be  
11 particularly relevant to a failure to mitigate; I think a  
12 failure to investigate, but I think the fact of who was  
13 prosecuted and what they were prosecuted for is a matter  
14 of public record.

15 And there will be evidence as to how many  
16 people were prosecuted or not prosecuted if that ends up  
17 being relevant to the defenses that are presented  
18 ultimately when the track one cases go to trial in some  
19 fashion.

20 Q. So the failure to investigate how drugs were  
21 entering jurisdiction, that would come within the ambit  
22 of the failure to mitigate?

23 A. I would assume that the entirety of how the track  
24 one Plaintiffs addressed the opioid crisis in their  
25 community and whether they did everything they could have

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1 and should have to address that crisis will be part and  
2 parcel of a potential defense based on failure to  
3 mitigate.

4 Q. And is it your testimony today that the many issues  
5 that this Task Force, this U.S. Opioid Task Force dealt  
6 with has absolutely nothing to do with any of the  
7 defenses that Endo Pharmaceuticals and the other  
8 manufacturers have alleged?

9 A. I have not said that the Opioid Task Force is  
10 unrelated in some fashion to this litigation. It is not  
11 confidential, and nothing that I learned in the context  
12 of that Task Force constitutes confidential government  
13 information within the meaning of Rule 1.11, and I don't  
14 know anything from having worked on that Task Force that  
15 is not also information that is available publicly and to  
16 other members of the Task Force including private  
17 citizens.

18 Q. This morning a number of your colleagues or former  
19 colleagues in the U.S. Attorney's Offices sent — signed  
20 a letter that was attached to an Endo Pharmaceuticals  
21 pleading supporting Endo's reply in opposition to our  
22 motion to disqualify you. Are you aware of that?

23 A. Yes, I am.

24 Q. How many of them, AUSAs or U.S. Attorney's, do you  
25 know?

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1 A. Personally, I would have to look at the list of  
2 people who signed them, probably five or six.

3 Q. And how many of those lawyers did you talk to about  
4 executing such a letter that was going to be submitted to  
5 the Court?

6 A. I talked to three of them.

7 Q. And when you talked to those — who are the three  
8 that you talked to?

9 A. So I talked — I talked by telephone with Barbara  
10 McQuade, who was the former U.S. Attorney for the Eastern  
11 District of Michigan. I talked with Richard Rossman, who  
12 is the current Executive Director of the National  
13 Association of Former U.S. Attorney's, and I talked with  
14 Carmen Ortiz, who was the U.S. Attorney for the District  
15 of Massachusetts.

16 Q. When did you talk to these three individuals?

17 A. I talked to Carmen Ortiz today. I talked to Barbara  
18 McQuade last week, and I talked to Richard Rossman last  
19 week.

20 Q. And when you talked with them, any of them, did you  
21 tell them in detail what your involvement had been with  
22 the U.S. Attorney Opioid Task Force for — during your  
23 tenure at the U.S. Attorney's Office?

24 A. I did, and I also made available to anybody who  
25 asked the publicly filed documents on the motion to

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1 disqualify in this case.

2 Q. Did you talk with them about what the allegations  
3 are in the lawsuits that have been filed against Endo  
4 Pharmaceuticals?

5 A. Generally, yes. In specific detail, no.

6 MR. WEINBERGER: Thank you, your Honor.  
7 That's all I have.

8 MR. PARKER: Few brief follow-ups, your  
9 Honor.

10 THE COURT: Very brief, Mr. Parker.

11 EXAMINATION CONTINUED

12 BY MR. PARKER:

13 Q. Ms. Rendon, Mr. Weinberger just asked you some  
14 questions about some former U.S. Attorneys who submitted  
15 a letter. Do you know how many former U.S. Attorneys,  
16 not AUSAs, U.S. Attorneys represent parties in one of  
17 these opioid cases that have been filed?

18 A. I know of at least a half dozen.

19 Q. Are they on both sides of that V?

20 A. Yes.

21 Q. One other question about Task Force: You were asked  
22 by Mr. Weinberger about overprescription by doctors,  
23 patient satisfaction scores, all of those things that  
24 were discussed during the Task Force meetings. Were  
25 those confidential or public?

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1 A. They were public.

2 Q. And one last question: If AUSAs and U.S. Attorneys  
3 are not allowed to leave the Government and represent  
4 private defendants in actions that just happen to be on  
5 the same topic of something they dealt while they were in  
6 government —

7 THE COURT: No one — I mean —

8 MR. PARKER: I will withdraw it, your  
9 Honor.

10 THE COURT: No one is suggesting that — you  
11 can ask the question, but no one is suggesting that.

12 MR. PARKER: Well, my question, your Honor,  
13 was going to be what kind of chilling effect does she  
14 believe, based upon her 20 years, almost 20 years working  
15 in the government, would a decision that says a former  
16 U.S. Attorney who touched on a topic that —

17 THE COURT: Remember I said at the outset  
18 the only thing I am considering is some limitation on  
19 participation in this track one trial regardless of what  
20 the initial motion was. That's all I am considering.

21 I am not considering limiting or restricting  
22 Ms. Rendon and the other 1499 some cases or being liaison  
23 counsel or anything else. The focus is on this, so I  
24 think — you can ask the question, but I don't think it  
25 is relevant. That's all.

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1 MR. PARKER: I think I can pick up the with  
2 queue. I will withdraw the question. Thanks, Judge.

## EXAMINATION CONTINUED

3  
4 BY THE COURT:

5 Q. All right. Ms. Rendon, I just have one question:  
6 There have been a lot of questions on both sides. We had  
7 three witnesses, two from the City, two from the County.

8 How do you feel sitting here today when you  
9 heard Commander Gingell and then Chief Williams say that  
10 they felt betrayed when they were questioned in  
11 depositions? How did you feel?

12 A. Personally, it made me feel badly. I don't agree  
13 with their perception. You know, I have spent nearly 30  
14 years practicing law, and I have been on both sides of  
15 the V, your Honor, and I believe to my deepest core that  
16 this system of justice that we have works only because  
17 clients on both sides of the V are entitled to zealous  
18 representation by counsel of their choice.

19 And so I have represented the United States  
20 of America, and I have represented people who have been  
21 alleged to have committed crimes. I have represented  
22 individuals and corporations, and I have done it all  
23 proudly and zealously and ethically, and my client, Endo  
24 Pharmaceuticals, is just as entitled to zealous  
25 representation by counsel of their choice as is any other

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1 party in any other case pending in any federal court in  
2 the United States of America.

3 And I believe that's my core, and if this  
4 system of justice doesn't allow that, then this system of  
5 justice cannot function.

6 Q. All right. I respect your opinion, but does  
7 it trouble you at all that those two distinguished  
8 public servants testified under oath that they felt  
9 betrayed?

10 A. It doesn't, your Honor, because they don't share  
11 that same belief. They are just as troubled when I  
12 represent an individual who has been accused of a crime  
13 because they see the world in very black and white terms.

14 There are good guys, and there are bad guys  
15 and the people on one side of the V are the good guys,  
16 and the people on the other side of the V are the bad  
17 guys. And I know this because I have talked to them and  
18 to other law enforcement officers who have said to me  
19 repeatedly how can you represent somebody who has been  
20 charged with child pornography? How can you do that?  
21 Because that's how our system of justice functions.

22 That's how it works, and they shouldn't feel betrayed.

23 They have a job to do, and they are doing it  
24 to the very best of their ability. I have a job to do,  
25 and I am doing it to the very best of my ability and

1 within the ethical rules every single day that I practice  
2 law.

3 THE COURT: All right. Thank you. All  
4 right. I want to give our court reporter a very short  
5 break, and it is getting late. So we will take a  
6 ten-minute break, and then I will hear no more than  
7 five-minute oral argument from each side, and I really  
8 mean it.

9 I am going to limit it to five minutes, and  
10 it has got to be focused on anything that has come up  
11 today at this hearing that you feel is not adequately  
12 addressed by your thorough briefs. So we will take a  
13 ten-minute recess and resume promptly and conclude the  
14 hearing.

15 (Recess had.)

16 THE COURT: Okay. Everyone can be seated,  
17 please. All right. So I said I would have five minutes  
18 of oral the argument from each side based on what we have  
19 today. So I guess, Mr. Weinberger, since your side  
20 brought the motion, I think you should speak first.

21 MR. WEINBERGER: May it please the Court,  
22 Judge Polster, I harken back to your initial comments,  
23 and I must say it is with a heavy heart and even stronger  
24 conviction that I ask the Court on behalf of the  
25 bellwether Plaintiffs in this case to grant the motion to

1 disqualify Ms. Rendon and her family -- not her family --  
2 her firm from this case.

3 And speaking of family, I just want the  
4 Court and Ms. Rendon to know that this is not personal,  
5 and you know, you could call that statement rhetoric if  
6 you want or disbelieve what I am saying when I say that,  
7 but I truly mean it.

8 And the fact that the Court saw fit to hear  
9 this motion in a public forum I think speaks volumes to  
10 the importance of the issue in this case because at  
11 issue, your Honor, is fundamentally what are the ethical  
12 responsibilities of a member of the Justice Department in  
13 whom our communities in the Northern District of Ohio and  
14 in whose citizens like myself and the Court place our  
15 trust.

16 This is not just a case of a government  
17 lawyer going into private practice and attempting to make  
18 a living as a private citizen in the private sector. The  
19 website of Baker and Hostetler that contains Ms. Rendon's  
20 biography describes her role as chairman of the Task  
21 Force as being one of her greatest accomplishments.

22 And when she did that, despite how she might  
23 want to parse what her -- who she was responsible to -- I  
24 mean, after all, the federal government is we, the  
25 people, and the Northern District of Ohio, the

1 U.S. Attorney represents we, the people, of our  
2 communities, communities who have been ravished by the  
3 opioid crisis, and that, as Defendants would say, the  
4 opioid abuse crisis.

5 It is an epidemic of huge proportions, and  
6 it affects all of us, and what has struck me about the  
7 response to our motion to disqualify, your Honor, is the  
8 briefs of the Defendants and those that joined in as  
9 amicus briefs, not one time ever addressed the question  
10 of the appearance of impropriety.

11 And you know, we can get hypertechnical and  
12 question whether or not that's a basis for a  
13 disqualification or whether it is to be something to be  
14 considered in relation to 1.11. The fact of the matter  
15 is that we brought this motion to disqualify because,  
16 having heard from Chief Williams and having heard from  
17 Dr. Gilson and from Commander Gingell, we were struck by  
18 the fact that, as their lawyers, they reacted in the way  
19 that they did to the way in which Ms. Rendon participated  
20 in the discovery in this case.

21 And so we had the responsibility, not just  
22 as officers of the Court, a responsibility that we all  
23 take very seriously but in representing the citizens of  
24 our communities who have brought these lawsuits to bring  
25 this motion. So you have -- we have laid it all out in

1 our briefs.

2 Let me just say one final thing that I think  
3 goes to the heart of this. So the motion, the  
4 affirmative defenses and the answers go directly to  
5 information that Ms. Rendon has obtained during her  
6 tenure as U.S. Attorney and AUSA working on the epidemic,  
7 and whether or not this is the exact same matter or not  
8 is really irrelevant. What is relevant is that she did  
9 switch sides.

10 She was pursuing remedies for our community,  
11 and now she is defending a Defendant and acting as  
12 liaison counsel for a number of Defendants that we say  
13 caused this crisis.

14 Ms. Rendon knows the rules of the courtroom,  
15 and you asked her specifically at the end a question  
16 about how she reacted to the testimony of our witnesses  
17 when they felt that they -- when they stated they felt  
18 betrayed; that their trust had been betrayed.

19 I waited for a direct answer, but I don't  
20 think you nor anyone else in this courtroom got a direct  
21 answer. What I heard a lot about was every client is  
22 entitled to zealous advocacy. That's true. But that  
23 doesn't mean that every client is entitled to zealous  
24 advocacy by every lawyer no matter what the circumstances  
25 are.

1                   And I would suggest to you respectfully,  
2                   your Honor, that the circumstances in this case require  
3                   that the Court consider carefully, as I know you have,  
4                   the circumstances where, within a few short months, she  
5                   switched sides to represent the Defendant Endo and the  
6                   other co-defendants in this case and rule in favor of our  
7                   motion to disqualify.

8                   Thank you, your Honor.

9                   THE COURT: All right. Thank you,  
10                  Mr. Weinberger.

11                  Mr. Parker?

12                  MR. PARKER: Thank you, your Honor, and  
13                  thank you for your attention today.

14                  And despite my great respect for  
15                  Mr. Weinberger, I have to disagree with him. This is  
16                  very personal. Make no mistake about it. The only way  
17                  that this Court under the law that applies to all of us  
18                  as lawyers in Ohio is to find that Ms. Rendon violated  
19                  an ethical rule. The appearance of impropriety is no  
20                  longer a standard that you can apply in this or any other  
21                  case.

22                  In February of 2007, the Ohio Supreme Court  
23                  adopted the new modeled rules, which replaced the old  
24                  Code of Professional Responsibility. It did so after  
25                  appointing a committee, a committee by the way which

1 Deborah Coleman served on with distinction, and I am sure  
2 she would report that the reason for that adoption of the  
3 model rules was because they wanted to get rid of the  
4 appearance of impropriety, because it is no longer a  
5 standard -- and was a standard that they gave former  
6 government lawyers and others no guidance under the  
7 rules.

8           The fact that there is no ethical violation  
9 by Ms. Rendon in this case is underscored by the fact  
10 that the Plaintiffs keep wanting to go back to a legal  
11 standard that is not the law here. And in fact, in the  
12 State versus the Cormack case out of the Eighth District,  
13 Cuyahoga County, the Court -- and we have cited this in  
14 our brief, so I won't repeat it all, your Honor -- but  
15 they said the appearance of impropriety is a rule now  
16 that only applies to judges. It doesn't apply to lawyers  
17 any more in Ohio.

18           And there the rule was applied improperly to  
19 a former government lawyer based upon him -- a prosecutor  
20 rather giving testimony before the Ohio Senate. That  
21 court in Cormack found that the application of the  
22 judicial code and the appearance of impropriety in and of  
23 itself was a basis for reversal, and they did, in fact,  
24 reverse.

25           The testimony of Commander Gingell and

1 Chief Williams where they feel betrayed doesn't create  
2 the appearance of impropriety because, as Ms. Rendon  
3 explained, that's the way that law enforcement sees it  
4 every time a prosecutor goes over to the defense side,  
5 and that's exactly what happened in this case. That's  
6 not an appearance of impropriety.

7 That is our system, and when you go over to  
8 the other side, if you don't like it because you are  
9 committed to law enforcement, that's fine, but that's not  
10 an appearance of impropriety, and it is certainly not a  
11 violation of the rules.

12 They have to — and Mr. Weinberger didn't  
13 really talk about the fact that there was any specific  
14 ethical rule violation here, but their briefs point to  
15 two.

16 Rule 1.11(a), where they say she switched  
17 sides, it is the same matter, working on the Opioid Task  
18 Force in the U.S. Attorney's Office, and this case is  
19 somehow the same matter. And secondly, under 1.11(c),  
20 she has confidential information.

21 But the case law that we've cited for you in  
22 our briefs, your Honor, point that those matters, the  
23 Opioid Task Force in these track one cases have to be  
24 identical. They have to be essentially the same. It is  
25 not enough that they just touch on the same thing.

1           You heard no testimony today from any  
2 witness that these are the same things. The testimony  
3 was more about trying to deal with the crisis in the  
4 community. That's one thing. The track one Defendants  
5 are accused of something totally different in a totally  
6 different setting.

7           It is not the same matter under any of the  
8 cases that have been cited. The opioid epidemic is like  
9 the cancer epidemic, like obesity epidemic, gun violence.  
10 They are general things. The case law says you can't  
11 find an ethical violation or otherwise. U.S. Attorney's,  
12 Assistant U.S. Attorneys, Cuyahoga County Prosecutors  
13 will never be able to leave their office and come into  
14 this or any other courtroom and handle a matter that is  
15 related to that.

16           Your Honor, there was testimony that  
17 Judge Synenberg and Judge Matia are members of the Opioid  
18 Task Force. The appearance of impropriety standard  
19 applies to them. Yet, the two of them, as you know,  
20 preside over our drug court in Common Pleas Court.

21           Certainly, their participation in what has  
22 been the testimony was a very public forum, cannot create  
23 even an appearance of impropriety, which is not the legal  
24 standard in Ohio, because their participation there is  
25 about dealing with the general problem affecting our

1 community.

2 And the only thing that relates, that  
3 the Plaintiffs have tried to show is that Ms. Rendon's  
4 participation in that committee, never in a subcommittee  
5 meeting, but just in the committee somehow created  
6 that.

7 Just to touch briefly, your Honor, on the  
8 Rule 1.11(c) violation rule, the rule is very specific as  
9 to what information constitutes confidential government  
10 information. It is defined, and there are a bunch of  
11 hurdles the Plaintiffs have to get over, none of which  
12 they presented you evidence on today.

13 They have to show that the information was  
14 obtained under governmental authority. That's why I kept  
15 asking: Was any of this information required to be given  
16 because there was some CID, some subpoena, some  
17 investigation? Every witness said no. They voluntarily  
18 gave it.

19 If you don't find that, you can't find a  
20 violation of Rule 1.11(c). The Justice Department would  
21 have to be presently prohibited under the rule from  
22 disclosing it to the public. There is no testimony today  
23 you heard about that. There is nothing in a single  
24 declaration filed in this motion that would touch on  
25 that.

1 Another requirement of Rule 1.11(c) is that  
2 the information cannot otherwise be available to the  
3 public. Well, your Honor, you heard a lot of testimony  
4 today about how public all of this was, and in fact, that  
5 there were members of the media attending the Opioid Task  
6 Force, and as Ms. Rendon testified, the purpose of the  
7 Opioid Task Force was to disseminate it publicly. So  
8 there cannot be a Rule 1.11(c) violation here.

9 In conclusion, your Honor, the Court has to  
10 find that Ms. Rendon violated a specific Ohio Rule of  
11 Conduct. The appearance of impropriety is old, outdated,  
12 and no longer good law in the state of Ohio.

13 And I would submit to you that the  
14 Plaintiffs have not offered you any evidence, any  
15 evidence that she violated 1.11(a) where the two matters  
16 would have to be the same. The U.S. Attorney's Heroin  
17 and Opioid Task Force simply isn't a matter, and they  
18 can't establish a violation of Rule 1.11(c) either, your  
19 Honor, because she doesn't possess confidential  
20 government information as that term is defined and as has  
21 been interpreted in the state of Ohio.

22 Your Honor, not only what I ask that you  
23 deny the motion that the Plaintiffs have brought, but in  
24 a day when the internet -- everything exists forever on  
25 the internet, and people will be able to go back in time

1 and look at this motion that has been filed against  
2 Ms. Rendon, that accuses her of violating an ethical  
3 rule, I would not only ask that you deny the motion; I  
4 would ask that you do it in the strongest terms possible.  
5 Thank you.

6 THE COURT: All right. Thank you,  
7 Mr. Parker. All right.

8 MR. UNGER: Your Honor --

9 THE COURT: Yes.

10 MR. UNGER: -- Mike Unger. We filed a brief  
11 earlier this week on behalf of Distributor Defendants  
12 AmerisourceBergen and McKesson. I was wondering if  
13 the Court would indulge me a couple minutes on the  
14 motion.

15 THE COURT: Well, it is getting late,  
16 Mr. Unger. I will give you two minutes --

17 MR. UNGER: I think I can.

18 THE COURT: -- but it has to be different  
19 than what anyone else has said.

20 MR. UNGER: I think I can do it, your Honor.

21 I join Mr. Parker in urging you to decline  
22 the Plaintiffs' invitation to apply that appearance of  
23 impropriety standard. I respectfully disagree. I have  
24 got a lot of respect for Mr. Weinberger, but I  
25 respectfully disagree that that topic wasn't addressed in

1 our brief or in any of the other briefs.

2 There is no appearance of impropriety  
3 standard in Ohio any longer.

4 THE COURT: I have already -- I have heard  
5 that. I need -- I only want something different than  
6 what Mr. Parker said.

7 MR. UNGER: Yeah. There is no unconf --  
8 makes the witness uncomfortable standard; there is no  
9 how-did-it-make-you-feel standard. That's just not the  
10 law in Ohio that applies to those of us who practice here  
11 in Cleveland or anywhere else.

12 And applying, I submit, your Honor, that  
13 outdated standard and thereby creating new law, whether  
14 it is by way of disqualification of Ms. Rendon or  
15 restricting her in any way with respect to her  
16 participation in this matter, will have broad and far  
17 reaching implications for the legal profession that this  
18 Court should avoid imposing.

19 Adopting the appearance of impropriety  
20 standards would just throw the current system out the  
21 window, again, as would the subjective views of witnesses  
22 based on claims of discomfort, disloyalty, or personal  
23 disappointment. Plaintiffs are asking you to do  
24 something in this case that is unprecedented.

25 It is noteworthy following on -- but

1 hopefully not repeating what Mr. Parker just said -- it  
2 is notable that they don't cite a single analogous case  
3 that supports their position, not one single Ohio case  
4 following what happened in 2007 when we changed here in  
5 Ohio the Code of Professional Responsibility to the Ohio  
6 Rules of Professional Conduct, whereby disqualification  
7 of an attorney based on the appearance of propriety was  
8 eliminated.

9 I respectfully submit, Judge, given what the  
10 Court is being asked to do here in taking into account  
11 what you have seen this afternoon, I submit that the  
12 first two lines of the Rules of Professional Conduct  
13 offer some helpful conduct, some helpful context and  
14 guidance, and they read as follows:

15 The rule -- and I quote "the Ohio Rules of  
16 Professional Conduct are rules of reason. They should be  
17 interpreted with reference to the purposes of legal  
18 representation and the law itself."

19 We join in the request that the motion be  
20 denied.

21 Thank you, your Honor.

22 THE COURT: All right. Thank you,  
23 Mr. Unger.

24 MR. SHKOLNIK: Judge Polster, just one  
25 procedural issue, and I am sorry to take the time, but

1 you had posed a question to Dr. Gilson -- I'm sorry,  
2 Hunter Shkolnik on behalf of Cuyahoga County -- whether  
3 or not Ms. Rendon questioned him at either of the  
4 depositions.

5 I think it needs to be clear on the record  
6 that the motion had been filed, and there was a  
7 suggestion that Ms. Rendon not -- or there was a  
8 discussion and Ms. Rendon withdrew, as I understand it,  
9 from handling those depositions. So I just think that  
10 should be clarified.

11 THE COURT: All right. Thank you.

12 MR. PARKER: Your Honor, I don't want to  
13 call Ms. Rendon again, but the reason she didn't  
14 participate was because her son was at the cardiologist.

15 THE COURT: All right. Well, it doesn't  
16 matter. I simply was -- you know, I was establishing who  
17 questioned him. It didn't matter why, and Ms. Rendon  
18 didn't. So all right.

19 I am just going to say a few things. There  
20 has never been a case or cases like this in the country.  
21 These cases don't fit well in a courtroom, and candidly,  
22 they don't fit very well -- this issue doesn't fit very  
23 well within the cases that either side has cited or for  
24 that matter the model rules.

25 So I have read the cases. I have read the

1 rules, but guess what? No one has had to deal with  
2 a situation like this that I have ever seen. I am  
3 the first one. So the rules provide some guidance.  
4 The cases provide some guidance, but none of those  
5 judges, courts have had to deal with something quite like  
6 this.

7 The Plaintiffs' theories don't fit squarely  
8 within the law. Their theories of damages don't fit  
9 squarely. So the Defendants' defenses don't fit so  
10 squarely, either. And there is a very important issue  
11 that, quite frankly, no one identified in the briefs, but  
12 I am keenly aware of it because I go back away.

13 And when I began as a federal prosecutor in  
14 1976, there was active competition, mistrust, distrust  
15 between local and state law enforcement officials and  
16 prosecutors and federal law enforcement officials and  
17 prosecutors, and I know that for a fact because I saw it,  
18 and I saw the impact, the adverse impact it had on law  
19 enforcement in this region and how it impacted our  
20 citizens.

21 And that climate of mistrust-distrust  
22 competition has changed over 40 some years, not by  
23 accident but by the very, very hard work, in my opinion,  
24 of federal officials who, one U.S. Attorney after another  
25 and the Assistant U.S. Attorneys in those offices,

1 beginning when I was there and then continuing for years  
2 after, have worked very, very hard to create a climate of  
3 cooperation and trust.

4 And today there are multiple task forces.  
5 As Ms. Rendon testified, it is not just the Heroin and  
6 Opioid Task Force; there are multiple task forces. I was  
7 on a few of them, and there is very close cooperation.

8 And the beneficiaries are not the law  
9 enforcement officials, the prosecutors or the agents, the  
10 beneficiaries are all of us who live here. And so we  
11 have sophisticated, cooperating law enforcement to  
12 address the very sophisticated law breakers.

13 And it has taken 40 some years to create  
14 that climate of trust, and I, as well as everyone else,  
15 should be very concerned about anything that erodes that,  
16 and that's why I listened very carefully to the testimony  
17 of the witnesses.

18 The key factual question in deciding this  
19 motion is whether or not Ms. Rendon is in her  
20 participation and is head of the Task — the Opioid and  
21 Heroin Task Force received confidential information,  
22 information that was not then publicly available, that  
23 was shared in a confidential way, and which she is  
24 somehow using now defending Endo in allegations brought  
25 by the city of Cleveland and County. All right.

1           The Plaintiffs insist that she received  
2 confidential information; the Defendants insist and  
3 Ms. Rendon testified that they — that she did not. The  
4 last thing I want is the deposition that the Plaintiffs  
5 have sought of Ms. Rendon to go fishing around and trying  
6 to ferret out exactly all the details of what were  
7 discussed.

8           And for that, I am not going to allow a  
9 deposition and for the same reason I didn't allow any  
10 questions of the witnesses here as to the details of what  
11 was discussed.

12           What I have done and I have this week asked  
13 the Department of Justice to look into that question.  
14 The Department of Justice had offered sometime in 2018 to  
15 participate as a friend of the Court. The Court needs a  
16 friend.

17           The Department of Justice has no position  
18 one way or another as to who represents Endo, whether it  
19 is Ms. Rendon in Baker or anyone else, and I have asked  
20 them, they are in a position to determine whether or not  
21 there was any confidential information shared by the city  
22 of Cleveland and/or County officials to Ms. Rendon during  
23 the Task Force meetings, and they are going to report  
24 that to me, and I will use that as a basis to make my  
25 decision. I think that's the best way to do it.

1           Until I receive that answer, I am going to  
2     direct that Ms. Rendon and Baker Hostetler attorneys not  
3     participate in any further depositions of city of  
4     Cleveland and Cuyahoga County witnesses. I don't know if  
5     there are going to be any, but I am imposing that  
6     limitation, and again, the only thing I am focusing on is  
7     this track one case.

8           I have not heard or seen anything which  
9     require any disqualification of Ms. Rendon or Baker as to  
10    participation in any other of the 1,500 or so cases in  
11    this MDL, any one of the 300 or so cases that are pending  
12    in state court, or participation as a liaison counsel or  
13    in any of the oversight of the MDL. We are focusing on  
14    this track one.

15          So the Department of Justice is looking into  
16    that, and they will report to me, and as soon as they do,  
17    I will make a decision. But I appreciate everyone's hard  
18    work at the hearing today and on the briefs that have  
19    been submitted.

20                So with that, we are adjourned. Thank you.

21                (Hearing concluded at 5:30 p.m.)

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C E R T I F I C A T E

I, George J. Staiduhar, Official Court  
Reporter in and for the United States District Court,  
for the Northern District of Ohio, Eastern Division,  
do hereby certify that the foregoing is a true  
and correct transcript of the proceedings herein.

s/George J. Staiduhar  
George J. Staiduhar,  
Official Court Reporter

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